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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह असग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

## LOK SABHA

The following Bills were introduced in Lok Sabha on 11th December, 1987:—

BILL No. 130 OF 1987

*A Bill to provide for the delegation of powers vested in the Administrator of the Union territory of Chandigarh.*

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

Short title and extent.

**1.** (*1*) This Act may be called the Chaindigarh (Delegation of powers) Act, 1987.

(*2*) It extends to the whole of the Union territory of Chandigarh.

Definition.

**2.** In this Act, unless the context otherwise requires, "Administrator" means the administrator of the Union territory of Chandigarh appointed by the President under article 239 of the Constitution.

Delegation of powers, etc. vested in Administrator.

**3.** (*1*) Any power, authority or jurisdiction or any duty which the Administrator may exercise or discharge under any law in force in the Union territory of Chandigarh may be exercised or discharged also by such officer or other authority as may be specified in this behalf by the Central Government or the Administrator by notification in the Official Gazette.

(2) The Administrator may transfer any appeal or application for revision or any other matter pending before him for disposal to an officer or other authority competent under sub-section (1) to dispose of the same.

(3) The Administrator may withdraw for disposal by himself any appeal or application for revision or any other matter pending before an officer or other authority competent under sub-section (1) to dispose of the same.

Validation.

**4.** Notwithstanding any judgment, decree or order of any court or tribunal or other authority to the contrary, where any power, authority or jurisdiction or any duty which the Administrator may exercise or discharge under any law in force in the Union territory of Chandigarh had been exercised or discharged by any officer or other authority before the commencement of this Act, such power, authority, jurisdiction or duty shall be deemed to have been validly and effectively exercised or discharged by such officer or other authority as if the provisions of sub-section (1) of section 3 were in force at all material times when such power, authority or jurisdiction was exercised or such duty was discharged and that officer or other authority had been specified as an officer or other authority by the Central Government or the Administrator in that behalf under the said sub-section, and accordingly, no suit or other proceeding shall be instituted, maintained or continued in any court or tribunal or before other authority on the ground that such officer or other authority was not competent to exercise such power, authorty or jurisdiction or to discharge such duty.

## STATEMENT OF OBJECTS AND REASONS

The statutory powers of the Central Government and the State Government under certain laws in their application to the Union territory of Chandigarh are with the Administrator of the Union territory of Chandigarh. Accordingly, the Administrator is required to exercise those statutory powers. Besides this, he is also required to discharge the functions of a quasi-judicial authority under certain other statutes.

2. At present, the Governor of Punjab is concurrently designated as the Administrator of the Union territory of Chandigarh. In his capacity as Administrator, he is required to exercise the said statutory powers and discharge the said quasi-judicial functions. As a result, several appeals and review cases are pending for disposal by the Administrator and it is not practiable for him to dispose of them expeditiously. It is, therefore, proposed to vest such powers of the Administrator in any officer or other authority as may be specified in this behalf by the Central Government or the Administrator by notification in the Official Gazette.

3. It is reported that due to expediency of the work the powers and functions of the State Government and Central Government which were normally to be exercised by the Administrator, have been exercised by some other officers and authorities. Accordingly, a need has arisen to validate such actions.

4. The Bill seeks to achieve the above objects.

NEW DELHI; CHINTAMANI PANIGRAHI.

*The 4th December*, 1987.

BILL NO. 131 OF 1987

A BILL *further to amend the Income-tax Act*, 1961, *the Wealth-tax Act*, 1957, *the Gift-tax Act*, 1958 *and the Companies (Profits) Surtax Act*, 1964.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Direct Tax Laws (Amendment) Act, 1987.

(*2*) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 1989 and any reference to the commencement of this Act in any provision of this Act shall be construed as a reference to the commencement of that provision.

## CHAPTER II

### AMENDMENTS TO THE INCOME-TAX ACT, 1961

43 of 1961.

Substitution of new authorities.

2. In the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), save as otherwise expressly provided in this Act, and unless the context otherwise requires, the references to any authority specified in column (*1*) of the Table below shall be substituted with effect from the 1st day of April, 1988 by the references to the authority or authorities specified in the corresponding entry in column (2) of the said Table and such consequential changes as the rules of grammar may require shall also be made:

TABLE

| (1) | (2) |
|---|---|
| Director of Inspection | Director General or Director |
| Deputy Director of Inspection | Deputy Director |
| Assistant Director of Inspection | Assistant Director |
| Commissioner | Chief Commissioner or Commissioner |
| Inspecting Assistant Commissioner | Deputy Commissioner |
| Appellate Assistant Commissioner | Deputy Commissioner (Appeals) |
| Income-tax Officer | Assessing Officer: |

Provided that nothing contained in this section shall apply to the references to "Commissioner" occurring in sections 245D, 253, 256, 263 and 264.

Amendment of section 2.

3. In section 2 of the Income-tax Act,—

(*a*) clauses (*1*) and (*1A*) shall be renumbered as clauses (*1A*) and (*1B*) respectively, and before clause (*1A*) as so renumbered, the following clause shall be inserted, namely:—

'(*1*) "advance tax" means the advance tax payable in accordance with the provisions of Chapter XVII-C;';

(*b*) after clause (7), the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

'(*7A*) "Assessing Officer" means the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section

(*1*) or sub-section (*2*) of section 120 or any other provision of this Act, and the Deputy Commissioner who is directed under clause (*b*) of sub-section (*4*) of that section to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act;';

(*c*) after clause (*9*), the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

'(*9A*) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Income-tax under sub-section (*1*) of section 117;';

(*d*) clause (*15A*) shall be renumbered as clause (*15B*), and before clause (*15B*) as so renumbered, the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

'(*15A*) "Chief Commissioner" means a person appointed to be a Chief Commissioner of Income-tax under sub-section (*1*) of section 117;';

(*e*) in clause (*16*), the words ", and includes a person appointed to be an Additional Commissioner of Income-tax under that sub-section" shall be omitted with effect from the 1st day of April, 1988;

(*f*) after clause (*19*), the following clauses shall be inserted with effect from the 1st day of April, 1988, namely:—

'(*19A*) "Deputy Commissioner" means a person appointed to be a Deputy Commissioner of Income-tax under sub-section (*1*) of section 117;

(*19B*) "Deputy Commissioner (Appeals)" means a person appointed to be a Deputy Commissioner of Income-tax (Appeals) under sub-section (*1*) of section 117;';

(*g*) for clause (*21*), the following clause shall be substituted with effect from the 1st day of April, 1988, namely:—

'(*21*) "Director General or Director" means a person appointed to be a Director General of Income-tax or, as the case may be, a Director of Income-tax, under sub-section (*1*) of section 117, and includes a person appointed under that sub-section to be a Deputy Director of Income-tax or an Assistant Director of Income-tax;';

(*h*) clause (*22A*) shall be renumbered as clause (*22B*), and before clause (*22B*) as so renumbered, the following clause shall be inserted, namely:—

'(*22A*) "domestic company" means an Indian company, or any other company which, in respect of its income liable to tax

under this Act, has made the prescribed arrangements for the declaration and payment, within India, of the dividends (including dividends on preference shares) payable out of such income;';

(*i*) after clause (*23*), the following clause shall be inserted, namely:—

'(*23A*) "foreign company" means a company which is not a domestic company;';

(*j*) in clause (*24*), in sub-clause (*iia*), for the words ", not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution", the words, brackets, letters and figures "or by a trust or institution of national importance referred to in clause (*d*) of sub-section (*1*) of section 80F" shall be substituted;

(*k*) for clause (*25*), the following clause shall be substituted with effect from the 1st day of April, 1988, namely:—

'(*25*) "Income-tax Officer" means a person appointed to be an Income-tax Officer under sub-section (*1*) of section 117;';

(*l*) clause (*27*) shall be omitted with effect from the 1st day of April, 1988;

(*m*) in clause (*28*), for the word, brackets and figure "sub-section (*2*)", the word, brackets and figure "sub-section (*1*)" shall be substituted with effect from the 1st day of April, 1988;

(*n*) after clause (*29B*) [as inserted by clause (*c*) of section 3 of the Finance Act, 1987], the following clause shall be inserted, namely:— 11 of 1987.

'(*29C*) "maximum marginal rate" means the rate of income-tax (including surcharge on income-tax, if any) applicable in relation to the highest slab of income in the case of an individual as specified in the Finance Act of the relevant year;';

(*o*) in clause (*37A*),—

(*i*) in sub-clause (*i*),—

(*1*) the words, brackets, figures and letter "or sub-section (*9*) of section 80E from any payment referred to therein" shall be omitted;

(*2*) for the words, figures and letter "section 115B or section 164", at both the places where they occur, the words, figures and letters "section 115B or section 115BB or section

115E or section 164 or section 164A or section 167A" shall be substituted with effect from the 1st day of April, 1988;

(3) after the words, figures and letter "or section 167A", at both the places where they occur, the words, figures and letter "or section 167B" shall be inserted;

(4) for the words, figures and letter "section 115B or, as the case may be, section 164", the words, figures and letters "section 115B or section 115BB or section 115E or section 164 or section 164A or section 167A, as the case may be," shall be substituted with effect from the 1st day of April, 1988;

(5) after the word, figures and letter "section 167A", in the third place where they occur, the words, figures and letter "or section 167B" shall be inserted;

(*ii*) in sub-clause (*ii*), for the figures, letter and word "194D and 195", the figures, letters and word "194D, 194E and 195" shall be substituted with effect from the 1st day of April, 1988;

(*p*) clause (*39*) shall be omitted;

(*q*) clause (*43B*) shall be omitted;

(*r*) for clause (*44*), the following clause shall be substituted, namely:—

'(*44*) "Tax Recovery Officer" means any Income-tax Officer who may be authorised by the Chief Commissioner or Commissioner, by general or special order in writing, to exercise the powers of a Tax Recovery Officer;';

(*s*) clause (*48*) shall be omitted.

Substitution of new section for section 3.

4. For section 3 of the Income-tax Act, the following section shall be substituted, namely:—

"Previous year" defined.

'3. (*1*) Save as otherwise provided in this section, "previous year" for the purposes of this Act, means the financial year immediately preceding the assessment year:

Provided that, in the case of a business or profession newly set up, or a source of income newly coming into existence, in the said financial year, the previous year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and ending with the said financial year.

(2) "Previous year", in relation to the assessment year commencing on the 1st day of April, 1989, means the period which begins with the date immediately following the last day of the previous year relevant to the assessment year commencing on the 1st day of April, 1988 and ends on the 31st day of March, 1989:

Provided that where the assessee has adopted more than one period as the "previous year" in relation to the assessment year commencing on the 1st day of April, 1988 for different sources of his income, the previous year in relation to the assessment year commencing on the 1st day of April, 1989 shall be reckoned separately in the manner aforesaid in respect of each such source of income, and the longer or the longest of the periods so reckoned shall be the previous year for the said assessment year.

(3) Where the previous year in relation to the assessment year commencing on the 1st day of April, 1989, referred to in sub-section (2) exceeds a period of twelve months, the provisions of this Act shall apply subject to the modifications specified in the rules in the Tenth Schedule.'.

5. In section 4 of the Income-tax Act, in sub-section (1),— Amendment of section 4.

(a) for the words "subject to the provisions of, this Act", the words and brackets "subject to the provisions (including provisions for the levy of additional income-tax) of, this Act" shall be substituted;

(b) the words "or previous years, as the case may be," shall be omitted.

6. In section 10 of the Income-tax Act,— Amendment of section 10.

(a) after clause (2), the following clause shall be inserted, namely:—

"(2A) in the case of a person being a partner of a firm which is assessed as such, his share in the total income of the firm.

*Explanation.*—For the purposes of this clause, the share of a partner in the total income of a firm assessed as such shall, notwithstanding anything contained in any other law, be an amount which bears to the total income of the firm the same proportion as the amount of his share in the profits of the firm in accordance with the partnership deed bears to such profits;";

(b) for clauses (4) and (4A), the following clause shall be substituted, namely:—

"(4) (i) in the case of a non-resident, any income by way of interest on such securities or bonds as the Central Government

may, by notification in the Official Gazette, specify in this behalf, including income by way of premium on the redemption of such bonds;

(*ii*) in the case of an individual, who is a person resident outside India as defined in clause (*q*) of section 2 of the Foreign Exchange Regulation Act, 1973, any income by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with the said Act and the rules made thereunder;"; 46 of 1973.

(*c*) for clause (5), the following clause shall be substituted, namely:—

'(5) subject to such conditions as the Central Government may prescribe (including conditions as to number of journeys and the amount which shall be exempt per head) in the case of an individual, the value of any travel concession or assistance received by or due to him,—

(*a*) from his employer for himself and his family, in connection with his proceeding on leave to any place in India;

(*b*) from his employer or former employer for himself and his family, in connection with his proceeding to any place in India after retirement from service or after the termination of his service:

Provided that the amount exempt under sub-clause (*a*) or sub-clause (*b*) shall not, except in such cases and under such circumstances as may be prescribed having regard to the travel concession or assistance granted to the employees of the Central Government, exceed the value of the travel concession or assistance which would have been received by or due to the individual in connection with his proceeding to any place in India on leave or, as the case may be, after retirement from service or after the termination of his service:

Provided further that the amount exempt under this clause shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.

*Explanation.*—For the purposes of this clause, "family", in relation to an individual, means—

(*i*) the spouse and children of the individual; and

(*ii*) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.';

(*d*) in clause (*10*),—

(*i*) in sub-clause (*iii*), for the words "calculated on the basis of the average salary for the three years immediately preceding the year in which the gratuity is paid, subject to a maximum of thirty-six thousand rupees or twenty months' salary so calculated, whichever is less", the words "calculated on the basis of the average salary for the ten months immediately preceding the month in which any such event occurs, subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government" shall be substituted;

(*ii*) in the first and second provisos, for the words "shall not exceed thirty-six thousand rupees", the words "shall not exceed the limit so specified" shall be substituted;

(*iii*) the third and fourth provisos shall be omitted;

(*iv*) in the *Explanation*, for the words "In this clause", the words, brackets, figures and letters "In this clause, and in clause (*10AA*)" shall be substituted;

(*e*) in clause (*10A*), the proviso shall be omitted;

(*f*) in clause (*10AA*), in sub-clause (*ii*),—

(*i*) for the words "six months", the words "eight months" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 1986;

(*ii*) for the words "or thirty thousand rupees, whichever is less", the words "subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 1986;

(*iii*) in the first and second provisos, for the words "shall not exceed thirty thousand rupees", the words "shall not exceed the limit so specified" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 1986;

(*iv*) the third and fourth provisos shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 1986;

(*v*) in the *Explanation*, the brackets and figure "(*i*)", and clause (*ii*) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 1986.

(*g*) in clause (*10B*), in the first proviso, for clause (*ii*), the following clause shall be substituted, namely:—

"(*ii*) such amount, not being less than fifty thousand rupees, as the Central Government may, by notification in the Official Gazette, specify in this behalf,";

(*h*) for clause (*14*), the following clause shall be substituted, namely:—

"(*14*) (*i*) any such special allowance or benefit, not being in the nature of a perquisite within the meaning of clause (*2*) of section 17, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, as the Central Government may, by notification in the Official Gazette, specify, to the extent to which such expenses are actually incurred for that purpose;

(*ii*) any such allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides, or to compensate him for the increased cost of living, as the Central Government may, by notification in the Official Gazette, specify, to the extent specified in the notification;";

(*i*) in clause (*15*), for sub-clauses (*i*), (*ia*), (*ib*), (*ii*) and (*iia*), the following sub-clause shall be substituted, namely:—

"(*i*) income by way of interest, premium on redemption or other payment on such securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and deposits as the Central Government may, by notification in the Official Gazette, specify in this behalf, subject to such conditions and limits as may be specified in the said notification;";

(*j*) for clauses (*17A*), (*17B*) and (*18*), the following clause shall be substituted, namely:—

"(*17A*) any payment made, whether in cash or in kind,—

(*i*) in pursuance of any award instituted in the public interest by the Central Government or any State Government or instituted by any other body and approved by the Central Government in this behalf; or

(*ii*) as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in the public interest;";

(*k*) clauses (*21*) and (*23*) shall be omitted;

(*l*) in clause (*23C*),—

(*i*) in sub-clause (*iii*), the word "or" occurring at the end shall be omitted;

(*ii*) sub-clauses (*iv*) and (*v*) and the proviso shall be omitted;

(*m*) after clause (*23C*), the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

'(*23D*) any income from such Mutual Fund set up by a public sector bank or a public financial institution and subject to such conditions, including the condition that at least ninety per cent. of the income from the Mutual Fund shall be distributed to the unit holders every year, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

*Explanation.*—For the purposes of this clause,—

(*a*) the expression "public sector bank" means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

23 of 1955.
38 of 1959.
5 of 1970.
40 of 1980.

(*b*) the expression "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956.'.

1 of 1956.

**Omission of sections 11, 12, 12A and 13.**

7. Sections 11, 12, 12A and 13 of the Income-tax Act shall be omitted.

**Amendment of section 15.**

8. In section 15 of the Income-tax Act, the *Explanation* shall be numbered as *Explanation 1*, and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

'*Explanation 2.*—Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as "salary" for the purposes of this section.'.

**Amendment of section 28.**

9. In section 28 of the Income-tax Act,—

(*a*) after clause (*iv*), the following clause shall be inserted, namely:—

"(*v*) any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm.";

(*b*) *Explanation* 1 shall be omitted.

**Omission of sections 35, 35B, 35C, 35CC, 35CCA and 35CCB.**

10. Sections 35, 35B, 35C, 35CC, 35CCA and 35CCB of the Income-tax Act shall be omitted.

Amendment of section 36.

11. In section 36 of the Income-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*ii*), the provisos shall be omitted;

(*ii*) in clause (*vii*), in the opening portion, for the words "any debt or part thereof which is established to have become a bad debt in the previous year", the words "any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year" shall be substituted;

(*iii*) in clause (*viia*), in the *Explanation*, for clause (*ii*), the following clause shall be substituted, namely:—

'(*ii*) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934, but does not include a co-operative bank;'; 23 of 1955. 38 of 1969. 5 of 1970. 40 of 1980. 2 of 1934.

(*b*) in sub-section (*2*),—

(*i*) for clause (*i*), the following clause shall be substituted, namely:—

"(*i*) no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee;";

(*ii*) in clause (*iii*), after the words "earlier previous year", the brackets, words, figures and letters "(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)" shall be inserted;

(*iii*) in clause (*iv*), after the words "accounts of the previous year", the brackets, words, figures and letters "(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)" shall be inserted.

Omission of section 39.

12. Section 39 of the Income-tax Act shall be omitted.

Amendment of section 40.

13. In section 40 of the Income-tax Act,—

(*i*) in the opening portion, for the words and figures "sections 30 to 39", the words and figures "sections 30 to 38" shall be substituted;

(*ii*) for clause (*b*), the following clauses shall be substituted, namely:—

'(*b*) in the case of any firm assessable as such,—

(*i*) any payment of salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as remuneration) to any partner who is not a whole-time working partner; or

(*ii*) any payment of remuneration to any partner who is a whole-time working partner, or of interest to any partner, which, in either case, is not authorised by, or is not in accordance with, the terms of the partnership deed; or

(*iii*) any payment of remuneration to any partner who is a whole-time working partner, or of interest to any partner, which, in either case is authorised by, and is in accordance with, the terms of the partnership deed, but which relates to any period (falling prior to the date of such partnership deed) for which such payment was not authorised by, or is not in accordance with, any earlier partnership deed, so, however, that the period of authorisation for such payment by any earlier partnership deed does not cover any period prior to the date of such earlier partnership deed; or

(*iv*) any payment of interest to any partner which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as such amount exceeds the amount calculated at such rate of interest as may be prescribed having regard to the maximum rate of interest payable by a scheduled bank on its deposits; or

(*v*) any payment of remuneration to any partner who is a whole-time working partner, which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as the amount of such payment to all the partners during the previous year exceeds the aggregate amount computed as hereunder:—

(*1*) in case of a firm carrying on a profession referred to in section 44AA or which is notified for the purpose of that section,—

| | |
|---|---|
| (*a*) on the first Rs. 50,000 of the book-profit | at the rate of 90 per cent.; |
| (*b*) on the next Rs. 50,000 of the book-profit | at the rate of 65 per cent.; |
| (*c*) on the balance of the book-profit | at the rate of 40 per cent.; |

(2) in the case of any other firm,—

| | |
|---|---|
| (a) on the first Rs. 50,000 of the book-profit | at the rate of 75 per cent.; |
| (b) on the next Rs. 50,000 of the book-profit | at the rate of 50 per cent.; |
| (c) on the balance of the book-profit | at the rate of 25 per cent. |

*Explanation* 1.—In this clause,—

(a) "whole-time working partner" means a partner of the firm who is in receipt of any remuneration from the firm for services rendered to that firm and who is not in receipt of any similar remuneration from any other person;

(b) "book-profit" means the profit which would have been computed in accordance with the provisions of Parts II and III of the Sixth Schedule to the Companies Act, 1956 if those provisions had been applicable to a firm and before making any deduction of any loss brought forward or any unabsorbed depreciation allowance or any other allowance or deduction brought forward from any earlier previous year and without making any deduction under section 32AB or section 33AB or under Chapter VI-A as increased by the following amounts if they have been taken into account in arriving at such profits— 1 of 1956.

(1) the aggregate amount of the remuneration and the interest to all the partners of the firm;

(2) income-tax;

(3) reserves or provisions of any kind;

(4) depreciation;

and as reduced by the depreciation computed in accordance with the provisions of sub-section (1) of section 32 and the aggregate amount of interest allowed to all the partners of the firm under this clause;

(c) "scheduled bank" shall have the same meaning as is assigned to it in the *Explanation* to clause (*viia*) of sub-section (1) of section 36.

*Explanation* 2.—Where an individual is a partner in a firm on behalf, or for the benefit, of any other person (such partner and the other person being hereinafter referred to as "partner in a representative capacity" and "person so represented", respectively),—

(i) interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;

(ii) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause.

*Explanation* 3.—Where an individual is a partner in a firm otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person;

(*ba*) in the case of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India], any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such association or body to a member of such association or body.

21 of 1860.

*Explanation* 1.—Where interest is paid by an association or body to any member thereof who has also paid interest to the association or body, the amount of interest to be disallowed under this clause shall be limited to the amount by which the payment of interest by the association or body to the member exceeds the payment of interest by the member to the association or body.

*Explanation* 2.—Where an individual is a member of an association or body on behalf, or for the benefit, of any other person (such member and the other person being hereinafter referred to as "member in a representative capacity" and "person so represented", respectively),—

(*i*) interest paid by the association or body to such individual or by such individual to the association or body otherwise than as member in a representative capacity, shall not be taken into account for the purposes of this clause;

(*ii*) interest paid by the association or body to such individual or by such individual to the association or body as member in a representative capacity and interest paid by the association or body to the person so represented or by the person so represented to the association or body, shall be taken into account for the purposes of this clause.

*Explanation* 3.—Where an individual is a member of an association or body otherwise than as member in a representative capacity, interest paid by the association or body to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person;';

(*iii*) clause (*c*) shall be omitted.

14. In section 40A of the Income-tax Act,— Amendment of section 40A.

(*a*) in sub-section (*3*), for the words "two thousand five hundred rupees", wherever they occur, the words "ten thousand rupees" shall be substituted;

(*b*) sub-sections (*5*) and (*6*) shall be omitted.

Amendment of section 43B.

15. In section 43B of the Income-tax Act,—

(*a*) in clause (*b*), the word "or" shall be inserted at the end;

(*b*) after clause (*b*), the following clause shall be inserted, namely:—

"(*c*) any sum referred to in clause (*ii*) of sub-section (*1*) of section 36,";

(*c*) in the first proviso (as inserted by section 10 of the Finance Act, 1987), after the word, brackets and letter "clause (*a*)", the words, brackets and letter "or clause (*c*)" shall be inserted; 11 of 1987.

(*d*) the *Explanation* shall be numbered as *Explanation* 1, and after *Explanation* 1 as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation* 2.—For the removal of doubts it is hereby declared that where a deduction in respect of any sum referred to in clause (*c*) of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.".

Insertion of new section 54A.

16. After section 54 of the Income-tax Act, the following section shall be inserted, namely:—

Relief of tax on capital gains on transfer of property held under trust for charitable or religious purposes or by certain institutions.

'54A. (*1*) Where the capital gain arises from the transfer of a long term capital asset, being property specified in sub-section (*2*) (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, during the previous year in which the transfer took place or within a period of six months after the close of such previous year, acquired another capital asset (such asset being hereafter in this section referred to as the new asset), to be held for the same purposes as those for which the original asset was held, then, the capital gain arising from the transfer shall be dealt with in accordance with the following provisions, that is to say,—

(*a*) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

(*b*) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the new asset bears to the net consideration shall not be charged under section 45:

Provided that in a case where the transfer of the original asset is by way of compulsory acquisition under any law and the

full amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer but is received after the expiry of the previous year, the period of six months referred to in this section shall, in relation to so much of such compensation as is not received before such expiry, be reckoned from the date immediately following the date on which such compensation is received by the assessee.

(2) The property referred to in sub-section (1) shall be the following, namely:—

(a) property held under trust wholly for charitable or religious purposes in India or by an institution established wholly for such purposes in India;

(b) property held under trust in part only for charitable or religious purposes in India, the trust having been created before the commencement of this Act;

(c) property held under a trust created on or after the 1st day of April, 1952, or by an institution established on or after that date, for a charitable purpose which is for the benefit of citizens of India abroad or which tends to promote international welfare in which India is interested;

(d) property held by a trust or institution of national importance referred to in clause (d) of sub-section (1) of section 80F.

(3) In the case of a capital asset being property falling under clause (b) of sub-section (2), the provisions of sub-section (1) shall apply only to that fraction of the capital gain arising from the transfer of such capital asset which represents the extent to which the income derived from the capital asset transferred was, immediately before such transfer, applicable to charitable or religious purposes.

*Explanation.*—In this section, "net consideration" shall have the meaning assigned to it in *Explanation* 5 below sub-section (1) of section 54E.'.

17. In section 64 of the Income-tax Act, in sub-section (1),— Amendment of section 64.

(a) clause (i) shall be omitted;

(b) in clause (ii), for the proviso, the following proviso shall be substituted, namely:—

"Provided that nothing in this clause shall apply in relation to any such income arising to the spouse from a firm carrying on any such profession as is referred to in sub-section (1) of section 44AA, where the spouse possesses any technical or professional qualification in the nature of a degree or diploma of a university within the meaning of clause (c) of the *Explanation* below sub-section (2B) of section 32A;";

(c) clause (*iii*) shall be omitted;

(d) in clause (*iv*), the words, brackets and figure "in a case not falling under clause (*i*) of this sub-section," shall be omitted;

(e) in clause (*v*), the words, brackets and figures "in a case not falling under clause (*iii*) of this sub-section," and the brackets and words "(not being a married daughter)" shall be omitted;

(f) in clause (*vii*), the brackets and words "(not being a married daughter)" shall be omitted;

(g) for *Explanation* 1, the following *Explanation* shall be substituted, namely:—

"*Explanation* 1.—For the purposes of clause (*ii*), the individual, in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater; and where any such income is once included in the total income of either spouse, any such income arising in any succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary so to do.";

(h) *Explanation* 1A and *Explanation* 2A shall be omitted;

(i) for *Explanation* 3, the following *Explanation* shall be substituted, namely:—

"*Explanation* 3.—For the purposes of clauses (*iv*), (*v*) and (*vi*), where the assets transferred directly or indirectly by an individual to his spouse or minor child or son's wife or son's minor child (hereafter in this *Explanation* referred to as "the transferee") are invested by the transferee,—

(*i*) in any business, such investment being not in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the transferee as on the said day;

(*ii*) in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the interest receivable by the transferee from the firm in any previous year, which bears the same proportion to the interest receivable by the transferee from the firm as the value of the investment aforesaid as on the first day of the previous year bears to the total investment by way of capital contribution as a partner in the firm as on the said day,

shall be included in the total income of the individual in that previous year.".

Substitution of new section for section 67.

18. For section 67 of the Income-tax Act, the following section shall be substituted, namely: —

Method of computing a member's share in the income of association of persons or body of individuals.

'67. (*1*) In computing the total income of an assessee who is a member of an association of persons or a body of individuals wherein the shares of the members are determinate and known [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India], whether the net result of the computation of the total income of such association or body is a profit or a loss, his share (whether a net profit or net loss) shall be computed as follows, namely:—

21 of 1860.

(*a*) any interest, salary, bonus, commission or remuneration by whatever name called, paid to any member in respect of the previous year shall be deducted from the total income of the association or body and the balance ascertained and apportioned among the members in the proportions in which they are entitled to share in the income of the association or body;

(*b*) where the amount apportioned to a member under clause (*a*) is a profit, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be added to that amount, and the result shall be treated as the member's share in the income of the association or body;

(*c*) where the amount apportioned to a member under clause (*a*) is a loss, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be adjusted against that amount, and the result shall be treated as the member's share in the income of the association or body.

(*2*) The share of a member in the income or loss of the association or body, as computed under sub-section (*1*), shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the association or body has been determined under each head of income.

(*3*) Any interest paid by a member on capital borrowed by him for the purposes of investment in the association or body shall, in computing his share chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the association or body, be deducted from his share.

*Explanation.*—In this section, "paid" has the same meaning as is assigned to it in clause (*2*) of section 43.'.

Omission of sections 75, 76 and 77.

19. Sections 75, 76 and 77 of the Income-tax Act shall be omitted.

Amendment of section 78.

20. In section 78 of the Income-tax Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the previous year.".

Amendment of section 80A.

21. In section 80A of the Income-tax Act, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) Where in computing the total income of an association of persons or a body of individuals, any deduction is admissible under section 80G or section 80HH or section 80HHA or section 80HHB or section 80HHC or section 80-I or section 80J, no deduction under the same section shall be made in computing the total income of a member of the association of persons or body of individuals in relation to the share of such member in the income of the association or body.".

Amendment of section 80B.

22. In section 80B of the Income-tax Act, clauses (*2*), (*4*), (*6*) and (*8*) shall be omitted.

Omission of section 80E.

23. Section 80E of the Income-tax Act shall be omitted.

Insertion of new section 80F.

24. After section 80E of the Income-tax Act as so omitted, the following section shall be inserted, namely:—

Deduction in respect of amounts applied for charitable or religious purposes, etc.

'80F. (*1*) In computing the total income of an assessee, being—

(*a*) a person in receipt of income derived from property held under trust wholly for charitable or religious purposes in India or by an institution established wholly for such purposes in India; or

(*b*) a person in receipt of income derived from property held under trust in part only for charitable or religious purposes in India, the trust having been created before the commencement of this Act; or

(*c*) a person in receipt of income derived from property held under a trust created on or after the 1st day of April, 1952, or by an institution established on or after that date, for a charitable purpose which is for the benefit of citizens of India

abroad or which tends to promote international welfare in which India is interested; or

(*d*) a trust or institution declared by the Board, by notification in the Official Gazette, to be a trust or institution of national importance, having regard to the objects set out in the instrument creating the trust or establishing the institution, the opinion of such experts in the respective fields of activity of the trust or institution as the Board may think fit to consult, and other relevant factors,

there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified hereunder, namely:—

(*i*) any amount applied in India by the person referred to in clause (*a*), or by the trust or institution referred to in clause (*d*), during the previous year wholly and exclusively to the purposes of the trust or institution;

(*ii*) any amount applied in India by the person referred to in clause (*b*) during the previous year wholly and exclusively to the charitable or religious purposes of the trust;

(*iii*) any amount applied outside India by the person referred to in clause (*c*) during the previous year wholly and exclusively for the benefit of citizens of India abroad or for promoting international welfare in which India is interested, where the Board has, by general or special order, directed such amount to be deducted:

Provided that any such amount applied wholly and exclusively for the benefit of citizens of India abroad shall qualify for the deduction under this clause only if such amount is applied in accordance with a scheme framed by such person and approved by the Board and notified in the Official Gazette;

(*iv*) any amount invested or deposited during the previous year in such form or mode, in such manner and for such period as may be prescribed, where such investment or deposit is held by such person or, as the case may be, trust or institution for a period of not less than six months ending with the due date for furnishing the return of income under sub-section (*1*) of section 139.

(2) The deduction under sub-section (*1*) shall not be allowed unless the following conditions are fulfilled, namely:—

(*a*) the person in receipt of the income or, as the case may be, the trust or institution has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the Commissioner or any other authority prescribed in this behalf before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution:

Provided that the Commissioner or the authority so prescribed may, in his or its discretion, admit an application for the registration of any trust or institution after the period aforesaid.

*Explanation.*—Where an application for registration of the trust or institution has been made to the Commissioner in accordance with the provisions of section 12A as it stood immediately before the 1st day of April, 1989, the requirements of this clause shall be deemed to have been complied with;

(*b*) where the gross total income of the trust or institution for the previous year exceeds fifty thousand rupees, the accounts of the trust or institution for the previous year have been audited by an accountant as defined in the *Explanation* below sub-section (*2*) of section 288 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed;

(*c*) such other conditions as the Board may, having regard to the interests or quantum of the revenue, by general or special order, impose, and such conditions may include a condition that a nominee of the Board shall, notwithstanding anything contained in any other law for the time being in force or in any instrument constituting the trust or institution concerned or governing the working thereof, be appointed on the Board of trustees of the said trust or, as the case may be, the governing body of the institution.

(*3*) The deduction under sub-section (*1*) shall not be allowed where—

(*a*) any part of the property of the trust or institution is held for a private religious purpose which does not enure for the benefit of the public or any part of the income from such property is applied to any such purpose as aforesaid;

(*b*) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, the trust or institution is created or established for the benefit of any particular religious community or caste;

(*c*) (*i*) in the case of a trust or an institution created or established after the commencement of this Act, any part of the income of the trust or institution, under the terms of the trust or the rules governing the institution, enures, or

(*ii*) in the case of a trust or institution whenever created or established, any part of the income or any property of the trust or institution is, during the previous year, used or applied,

in a manner which results directly or indirectly in conferring any benefit, amenity or perquisite (whether convertible into money or not) on any interested person; or

(*d*) any funds of the trust or institution are invested or deposited, for any period during the previous year, otherwise than in any such form or mode, in such manner and for such period as is prescribed for the purposes of clause (*iv*) of sub-section (*1*):

Provided that the Chief Commissioner or the Commissioner may, if he is satisfied, on an application by the trust or institution, that the application of the provisions of sub-clause (*i*) or sub-clause (*ii*) of clause (*c*) would result in grave hardship to the trust or institution, allow the deduction wholly or to such extent as he may deem fit having regard to the extent of the benefit, amenity or perquisite derived or enjoyed by the interested person:

Provided further that in the case of a trust or institution created or established before the commencement of this Act, the provisions of sub-clause (*ii*) of clause (*c*) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution in the manner specified in that clause, if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution.

(*4*) Without prejudice to the generality of the provisions of clause (*c*) of sub-section (*3*), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied in a manner which results directly or indirectly in conferring any benefit, amenity or perquisite (whether convertible into money or not) on any interested person, if—

(*a*) any part of the income or property of the trust or institution is, or continues to be, lent to any interested person for any period during the previous year without either adequate security or adequate interest or both;

(*b*) any land, building or other property of the trust or institution is, or continues to be, made available for the use of any interested person for any period during the previous year without charging adequate rent or other compensation;

(*c*) any amount is paid by way of salary, allowance or otherwise during the previous year to any interested person out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;

(*d*) the services of the trust or institution are made available to any interested person during the previous year without adequate remuneration or other compensation;

(*e*) any share, security or other property is purchased by or on behalf of the trust or institution from any interested person during the previous year for a consideration which is more than adequate;

(*f*) any share, security or other property is sold by or on behalf of the trust or institution to any interested person during the previous year for a consideration which is less than adequate;

(*g*) any income or property of the trust or institution is diverted during the previous year in favour of any interested person:

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property so diverted does not exceed one thousand rupees;

(*h*) any funds of the trust or institution are, or continue to remain, invested for any period during the previous year in any concern in which any interested person has a substantial interest:

Provided that in a case where the aggregate of the funds of the trust or institution invested in a concern referred to in this clause does not exceed five per cent. of the capital of that concern, the deduction under sub-section (*1*) in respect of the amount referred to in clause (*i*) or clause (*ii*) of that sub-section shall not be denied in relation to the application of any income other than the income arising to the trust or institution from such investment, by reason only of this clause.

(*5*) Where deduction has been allowed under sub-section (*1*) for any previous year with reference to any amount referred to in clause (*iv*) of that sub-section and in any subsequent previous year the whole or any part of the investment or deposit in which such amount is held is realised or converted into cash, the amount so realised or converted into cash shall, notwithstanding anything contained in any other provision of this Act, be deemed to be the income of the assessee of the previous year in which it is so realised or converted and shall be chargeable to tax accordingly.

(*6*) The deduction under sub-section (*1*) shall not be allowable in a case where the whole or any part of the income of the person or, as the case may be, trust or institution referred to in that sub-section is chargeable to income-tax, by virtue of the provisions of sections 60 to 63, as the income of the author of the trust or founder of the institution or any other person who has made a transfer of any income or asset to the trust or institution.

(*7*) Where the property referred to in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (*1*) consists wholly or partly of a business undertaking, or any person, trust or institution referred to in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of that sub-section derives income from a business carried on by him or it, the foregoing provisions of this section shall apply subject to the following conditions and with the following modifications, namely:—

(*a*) separate books of account are maintained by such person, trust or institution in respect of such business; such accounts are maintained on the cash system of accounting and are audited by an accountant as defined in the *Explanation* below sub-section (*2*) of section 288, and the person, trust or institution furnishes, along with the return of income for the relevant assessment year, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed;

(*b*) in computing the profits and gains of such business, no deduction shall be allowed in respect of any expenditure which

results directly or indirectly in the provision of any remuneration, perquisite, benefit or amenity to any interested person, whether for any services rendered or otherwise;

(c) the provisions of sections 71 and 72 shall not be applicable in relation to any loss pertaining to such business;

(d) any amount referred to in clause (i) or clause (ii) or clause (iii) of sub-section (1), in so far as such amount is applied out of the profits and gains of such business, shall qualify for the deduction under that sub-section, if—

(i) such amount is so applied during the previous year; or

(ii) such amount is so applied during the financial year next following the previous year and, until it is so applied, the amount is kept in deposit in a separate account in any scheduled bank and it is not utilised for any purpose which is not a purpose of the trust or institution,

and any amount which is not so applied out of such deposit during the financial year aforesaid shall be chargeable to tax as the income under the head "Profits and gains of business or profession" of such person, trust or institution of the next following previous year and all the provisions of this Act shall apply accordingly;

(e) any amount referred to in clause (iv) of sub-section (1) shall not be taken into account for the purpose of allowing the deduction under that sub-section, in so far as such amount relates to the profits and gains of such business;

(f) without prejudice to the provisions of sub-section (3), the deduction under sub-section (1) shall not be allowed in a case where—

(i) such business consists, wholly or partly, in—

(A) the purchase and sale of any securities or shares; or

(B) money-lending or financing in any form; or

(C) speculation in securities or shares or any other commodities; or

(D) engaging in the conduct of, or participating in, any lottery or crossword puzzle, races including horse races, card games or other games of any sort or gambling or betting of any form or nature whatsoever; or

(E) such other activity as may be prescribed; or

(ii) the person, trust or institution aforesaid engages in any business transaction with any interested person or with any concern in which any interested person has a substantial interest;

(iii) such person, trust or institution enters into any partnership or joint venture or forms any association of

persons or a body of individuals with any interested person or with any concern in which any interested person has a substantial interest.

(8) The Board may, by general or special order, direct that any power or authority conferred upon it under this section may, subject to such conditions and restrictions as it may think fit to impose, be exercised also by such officer not below the rank of a Commissioner as it may specify in the order.

*Explanation* 1.—For the purposes of this section,—

(*a*) "interested person" means—

(*i*) the author of the trust or the founder of the institution;

(*ii*) any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds twenty-five thousand rupees;

(*iii*) where such author, founder or person is a Hindu undivided family, a member of the family or any relative of such member;

(*iv*) any trustee of the trust or manager (by whatever name called) of the institution;

(*v*) any relative of any such author, founder, person, member, trustee or manager as aforesaid;

(*vi*) any concern in which any of the persons referred to in sub-clauses (*i*), (*ii*), (*iii*), (*iv*) and (*v*) has a substantial interest;

(*b*) "relative", in relation to an individual, means,—

(*i*) spouse of the individual;

(*ii*) brother or sister of the individual;

(*iii*) brother or sister of the spouse of the individual;

(*iv*) any lineal ascendant or descendant of the individual;

(*v*) any lineal ascendant or descendant of the spouse of the individual;

(*vi*) spouse of a person referred to in sub-clause (*ii*), sub-clause (*iii*), sub-clause (*iv*) or sub-clause (*v*);

(*vii*) any lineal ascendant or descendant of a brother or sister of either the individual or of the spouse of the individual;

(*c*) "scheduled bank" shall have the same meaning as in clause (*ii*) of the *Explanation* to clause (*viia*) of sub-section (*1*) of section 36;

(*d*) "trust" includes any other legal obligation;

(*e*) any reference to "institution" shall be construed as including also a reference to "fund".

*Explanation* 2.—A trust or institution created or established for the benefit of scheduled castes, backward classes, scheduled tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (*b*) of sub-section (3).

*Explanation* 3.—For the purposes of this section, a person shall be deemed to have a substantial interest in a concern,—

(*i*) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent. of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of the other persons referred to in clause (*a*) of *Explanation* 1;

(*ii*) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in clause (*a*) of *Explanation* 1 are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent. of the profits of such concern.'.

Amendment of section 80G.

**25.** In section 80G of the Income-tax Act,—

(*a*) in sub-section (*1*), in clause (*i*), for the words, brackets, figures and letter "sub-clause (*iiia*) or in", the words, brackets, figures and letters "sub-clause (*iiia*) or sub-clause (*iiid*) or sub-clause (*iiie*) or" shall be substituted;

(*b*) in sub-section (*2*), after sub-clause (*iiic*) of clause (*a*), the following sub-clauses shall be inserted, namely:—

"(*iiid*) the rural development fund set up and notified by the Central Government in this behalf; or

(*iiie*) a trust or institution of national importance referred to in clause (*d*) of sub-section (*1*) of section 80F which has as its main object the undertaking of scientific research or carrying out of any rural development programme or any programme of conservation of natural resources or of afforestation of wasteland; or";

(*c*) for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(*4*) Where the aggregate of the sums referred to in sub-clauses (*iv*), (*v*), (*vi*) and (*vii*) of clause (*a*) and in clause (*b*) of sub-section (*2*) exceeds ten per cent. of the gross total income (as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any other provision of this Chapter), then the amount in excess of ten per cent. of the gross total income shall be ignored for the purpose of computing the aggregate of the sums in respect of which deduction is to be allowed under sub-section (*1*).";

(*d*) in sub-section (5), for clause (*i*), the following clause shall be substituted, namely:—

"(*i*) where the institution or fund derives any income, such income would not be liable to be included in its total income under the provisions of clause (*22*) or clause (*22A*) or clause (*23AA*) or clause (*23C*) of section 10, or the trust or institution [other than the trust or institution referred to in sub-clause (*iiie*) of clause (*a*) of sub-section (*2*)] is eligible for the deduction under section 80F;";

(*e*) in *Explanation* 2, for clauses (*i*) and (*ii*), the following clauses shall be substituted, namely:—

"(*i*) that, subsequent to the donation, the trust or institution has become ineligible for the deduction under section 80F due to non-compliance with any of the provisions of that section;

(*ii*) that the deduction under section 80F is denied in relation to the application of any income arising to it from any investment referred to in clause (*h*) of sub-section (*4*) of that section where the aggregate of the funds invested by it in a concern referred to in the said clause (*h*) does not exceed five per cent. of the capital of that concern;".

Omission of section 80GGA.

**26.** Section 80GGA of the Income-tax Act shall be omitted.

Amendment of section 80L.

**27.** In section 80-L of the Income-tax Act, in sub-section (*1*), after clause (*v*), the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

"(*va*) income received in respect of units of a Mutual Fund specified under clause (*23D*) of section 10;".

Omission of section 80QQ.

**28.** Section 80QQ of the Income-tax Act shall be omitted.

Substitution of new section for section 86.

**29.** For section 86 of the Income-tax Act, the following section shall be substituted, namely:—

Share of member of an association of persons or body of individuals in the income of the association or body.

"86. Where the assessee is a member of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India, income-tax shall not be payable by the assessee in respect of his share in the income of the association or body computed in the manner provided in section 67: 21 of 1860.

Provided that,—

(*a*) where the association or body is chargeable to tax on its total income at the maximum marginal rate or any higher rate, under any of the provisions of this Act, the share of a mem-

ber computed as aforesaid shall not be included in his total income;

(*b*) in any other case, the share of a member computed as aforesaid shall form part of his total income:

Provided further that where no income-tax is chargeable on the total income of the association or body, the share of a member computed as aforesaid shall be chargeable to tax as part of his total income and nothing contained in this section shall apply to the case.".

Substitution of new sections for sections 116, 117 and 118.

30. For sections 116, 117 and 118 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:—

Income-tax authorities.

"116. There shall be the following classes of income-tax authorities for the purposes of this Act, namely:—

(*a*) the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963,

54 of 1963.

(*b*) Directors-General of Income-tax or Chief Commissioners of Income-tax,

(*c*) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals),

(*d*) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners of Income-tax (Appeals),

(*e*) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax,

(*f*) Income-tax Officers,

(*g*) Tax Recovery Officers,

(*h*) Inspectors of Income-tax.

Appointment of income-tax authorities.

117. (*1*) The Central Government may appoint such persons as it thinks fit to be income-tax authorities.

(*2*) Without prejudice to the provisions of sub-section (*1*), and subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, the Central Government may authorise the Board, or a Director-General, a Chief Commissioner or a Director or a Commissioner to appoint income-tax authorities below the rank of an Assistant Commissioner.

(*3*) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an income-tax authority authorised in this behalf by the Board may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.

Control of income-tax authorities.

118. The Board may, by notification in the Official Gazette, direct that any income-tax authority or authorities specified in the notification shall be subordinate to such other income-tax authority or authorities as may be specified in such notification.".

Amendment of section 119.

31. In section 119 of the Income-tax Act, with effect from the 1st day of April, 1988,—

(*a*) in sub-section (*2*), in clause (*b*), for the words "the Commissioner or the Income-tax Officer", the words and brackets "any income-tax authority, not being a Deputy Commissioner (Appeals) or Commissioner (Appeals)" shall be substituted;

(*b*) sub-section (*3*) shall be omitted.

Substitution of new section for section 120.

32. For section 120 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Jurisdiction of income-tax authorities.

"120. (*1*) Income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on or, as the case may be, assigned to such authorities by or under this Act in accordance with such directions as the Board may issue for the exercise of the powers and performance of the functions by all or any of those authorities.

(*2*) The directions of the Board under sub-section (*1*) may authorise any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the other income-tax authorities who are subordinate to it.

(*3*) In issuing the directions or orders referred to in sub-sections (*1*) and (*2*), the Board or other income-tax authority authorised by it may have regard to any one or more of the following criteria, namely:—

(*a*) territorial area;

(*b*) persons or classes of persons;

(*c*) incomes or classes of income; and

(*d*) cases or classes of cases.

(*4*) Without prejudice to the provisions of sub-sections (*1*) and (*2*), the Board may, by general or special order, and subject to such conditions, restrictions or limitations as may be specified therein,—

(*a*) authorise any Director-General or Director to perform such functions of any other income-tax authority as may be assigned to him by the Board;

(*b*) empower the Director-General or Chief Commissioner or Commissioner to issue orders in writing that the powers and functions conferred on, or as the case may be, assigned to, the

Assessing Officer by or under this Act in respect of any specified area or persons or classes of persons or incomes or classes of income or cases or classes of cases, shall be exercised or performed by a Deputy Commissioner, and, where any order is made under this clause, references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such Deputy Commissioner by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the Deputy Commissioner shall not apply.

(5) The directions and orders referred to in sub-sections (1) and (2) may, wherever considered necessary or appropriate for the proper management of the work, require two or more Assessing Officers (whether or not of the same class) to exercise and perform, concurrently, the powers and functions in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases; and, where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct, and, further, references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

(6) Notwithstanding anything contained in any direction or order issued under this section, or in section 124, the Board may, by notification in the Official Gazette, direct that for the purpose of furnishing of the return of income or the doing of any other act or thing under this Act or any rule made thereunder by any person or class of persons, the income-tax authority exercising and performing the powers and functions in relation to the said person or class of persons shall be such authority as may be specified in the notification.".

Omission of sections 121, 121A, 122, 123, 125, 125A, 126, 128, 130 and 130A.

**33.** Sections 121, 121A, 122, 123, 125, 125A, 126, 128, 130 and 130A of the Income-tax Act shall be omitted with effect from the 1st day of April, 1988.

Substitution of new section for section 124.

**34.** For section 124 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Jurisdiction of Assessing Officers.

"124. (1) Where, by virtue of any direction or order issued under sub-section (1) or sub-section (2) of section 120, the Assessing Officer has been vested with jurisdiction over any area, within the limits of such area, he shall have jurisdiction—

(*a*) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situate within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situate within the area, and

(*b*) in respect of any other person residing within the area.

(*2*) Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person, the question shall be determined by the Director-General or the Chief Commissioner or the Commissioner; or where the question is one relating to areas within the jurisdiction of different Directors General or Chief Commissioners or Commissioners, by the Directors General or Chief Commissioners or Commissioners concerned or, if they are not in agreement, by the Board or by such Director General or Chief Commissioner or Commissioner as the Board may, by notification in the Official Gazette, specify.

(*3*) No person shall be entitled to call in question the jurisdiction of an Assessing Officer—

(*a*) where he has made a return under sub-section (*1*) of section 139, after the expiry of one month from the date on which he was served with a notice under sub-section (*1*) of section 142 or sub-section (*2*) of section 143 or after the completion of the assessment, whichever is earlier;

(*b*) where he has made no such return, after the expiry of the time allowed by the notice under sub-section (*1*) of section 142 or under section 148 for the making of the return or by the notice under the first proviso to section 144 to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier.

(*4*) Subject to the provisions of sub-section (*3*), where an assessee calls in question the jurisdiction of an Assessing Officer, then the Assessing Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (*2*) before the assessment is made.

(*5*) Notwithstanding anything contained in this section or in any direction or order issued under section 120, every Assessing Officer shall have all the powers conferred by or under this Act on an Assessing Officer in respect of the income accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the directions or orders issued under sub-section (*1*) or sub-section (*2*) of section 120.".

Substitution of new section for section 127.

35. For section 127 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Power to transfer cases.

'127. (*1*) The Director General or Chief Commissioner or Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after

recording his reasons for doing so, transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) also subordinate to him.

(2) Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same Director General or Chief Commissioner or Commissioner,—

(*a*) where the Directors General or Chief Commissioners or Commissioners to whom such Assessing Officers are subordinate are in agreement, then the Director General or Chief Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order;

(*b*) where the Directors General or Chief Commissioners or Commissioners aforesaid are not in agreement, the order transferring the case may, similarly, be passed by the Board or any such Director General or Chief Commissioner or Commissioner as the Board may, by notification in the Official Gazette, authorise in this behalf.

(3) Nothing in sub-section (*1*) or sub-section (2) shall be deemed to require any such opportunity to be given where the transfer is from any Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) and the offices of all such officers are situated in the same city, locality or place.

(4) The transfer of a case under sub-section (*1*) or sub-section (2) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.

*Explanation.*—In section 120 and this section, the word "case", in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.'.

Amendment of section 131.

36. In section 131 of the Income-tax Act,—

(*a*) in sub-section (*1A*), for the words "If the Assistant Director of Inspection", the words, brackets and figures "If the Director-General or Director, or the authorised officer referred to in sub-section (*1*) of section 132, before he takes action under clauses (*i*) to (*iii*) of that sub-section," shall be substituted;

(*b*) sub-section (*2*) shall be omitted.

Amendment of section 132.

37. In section 132 of the Income-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "or Income-tax Officer" occurring in clauses (*A*) and (*B*), the words "Assistant Commissioner or Income-tax Officer" shall be substituted;

(*ii*) in the proviso, for the word and figures "section 121", the word and figures "section 120" shall be substituted;

(*b*) in sub-section (*1A*), for the word and figures "section 121", the word and figures "section 120" shall be substituted;

(*c*) in sub-section (*3*), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (*iii*) of sub-section (*1*).";

(*d*) in sub-section (*4*), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922, or under this Act.";

11 of 1922.

(*e*) after sub-section (*8*), the following sub-section shall be inserted, namely:—

"(*8A*) An order under sub-section (*3*) shall not be in force for a period exceeding sixty days from the date of the order, except where the authorised officer, for reasons to be recorded by him in writing, extends the period of operation of the order beyond sixty days, after obtaining the approval of the Commissioner for such extension:

Provided that the Commissioner shall not approve the extension of the period for any period beyond the expiry of thirty days after the completion of all the proceedings under this Act in respect of the years for which the books of account, other documents, money, bullion, jewellery or other valuable articles or things are relevant.";

(*f*) in *Explanation* 1, for the words, brackets and figure "the period of one hundred and twenty days for the purposes of sub-section (5)", the words, brackets and figure "the period referred to in sub-section (*5*) for the purposes of that sub-section" shall be substituted.

38. In section 132A of the Income-tax Act, in sub-section (*1*), for the words "or Income-tax Officer", the words ", Assistant Commissioner or Income-tax Officer" shall be substituted. Amendment of section 132A.

39. In section 133 of the Income-tax Act,— Amendment of section 133.

(*a*) in clause (*4*), for the words "four hundred rupees", the words "one thousand rupees, or such higher amount as may be prescribed" shall be substituted;

(*b*) the following proviso shall be added at the end, namely:—

"Provided that the powers referred to in clause (*6*), may also be exercised by the Director-General, the Chief Commissioner, the Director and the Commissioner.".

40. In section 133A of the Income-tax Act, in the *Explanation*, in clause (*a*), for the words "if so authorised by the Income-tax Officer", the words "if so authorised by any such authority" shall be substituted. Amendment of section 133A.

41. In section 138 of the Income-tax Act, in sub-section (*1*),— Amendment of section 138.

(*i*) in clause (*a*), for the words and figures "relating to any assessee in respect of any assessment made under this Act or under the Indian Income-tax Act, 1922", the following shall be substituted, namely:— 11 of 1922.

"received or obtained by any income-tax authority in the performance of his functions under this Act";

(*ii*) in clause (*b*),—

(*1*) for the words, figures and letters "in respect of any assessment made under this Act or the Indian Income-tax Act, 1922 on or after the 1st day of April, 1960", the words "received or obtained by any income-tax authority in the performance of his functions under this Act" shall be substituted; 11 of 1922.

(*2*) the words "in respect of that assessment only" shall be omitted.

42. In section 139 of the Income-tax Act,— Amendment of section 139.

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

'(*1*) Every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

*Explanation.*—In this sub-section, "due date" means—

(*a*) where the assessee is a company the 31st day of December of the assessment year;

(*b*) where the assessee is a person, other than a company,—

(*i*) in a case where the accounts of the assessee are required under this Act or any other law to be audited, or in the case of a co-operative society, the 31st day of October of the assessment year;

(*ii*) in a case where the total income referred to in this sub-section includes any income from business or profession, not being a case falling under sub-clause (*i*), the 31st day of August of the assessment year;

(*iii*) in any other case, the 30th day of June of the assessment year.';

(*b*) sub-section (*2*) shall be omitted;

(c) in sub-section (*3*) [as amended by section 12 of the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986],— 46 of 1986.

(*i*) the words, brackets and figure "has not been served with a notice under sub-section (*2*)," shall be omitted;

(*ii*) the words "or by the thirty-first day of July of the assessment year relevant to the previous year during which the loss was sustained" shall be omitted;

(*d*) for sub-sections (*4*) and (*4A*), the following sub-sections shall be substituted, namely:—

"(*4*) Any person who has not furnished a return within the time allowed to him under sub-section (*1*), or within the time allowed under a notice issued under sub-section (*1*) of section 142, may furnish the return for any previous year at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier:

Provided that where the return relates to a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, the reference to one year aforesaid shall be construed as a reference to two years from the end of the relevant assessment year.

(*4A*) Every person, trust or institution referred to in sub-section (*1*) of section 80F shall, if the total income in respect of which such person, trust or institution is assessable (the total income for this purpose being computed without giving effect to the provisions of that section) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (*1*).";

(*e*) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) If any person, having furnished a return under sub-section (*1*), or in pursuance of a notice issued under sub-section (*1*) of section 142, discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

Provided that where the return relates to the previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, the reference to one year aforesaid shall be construed as a reference to two years from the end of the relevant assessment year.";

(*f*) in sub-sections (*6*) and (*6A*), for the words, brackets and figures "in sub-sections (*1*), (*2*) and (*3*)", the words, brackets and figures "in sub-sections (*1*) and (*3*) of this section, and in clause (*i*) of sub-section (*1*) of section 142" shall be substituted;

(*g*) sub-section (*7*) shall be omitted;

(*h*) in sub-section (*8*), after clause (*b*), the following clause shall be inserted, namely:—

"(*c*) The provisions of this sub-section shall apply in respect of the assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references therein to the other provisions of this Act shall be construed as references to the said provisions as they were applicable to the relevant assessment year.";

(*i*) in sub-section (*10*), in the proviso, for clauses (*c*) and (*d*), the following clauses shall be substituted, namely:—

"(*c*) a return of loss which has been furnished in accordance with the provisions of sub-section (*3*);

(*d*) a return furnished under sub-section (*4A*), in respect of a person, trust or institution referred to in sub-section (*1*) of section 80F;".

**Amendment of section 139A.**

**43.** In section 139A of the Income-tax Act,—

(*i*) in sub-sections (*1*) and (*2*), for the words "any accounting year", the words "any previous year" shall be substituted;

(*ii*) in sub-section (*6*), after clause (*b*), the following clause shall be inserted, namely:—

"(*c*) the categories of documents pertaining to business or profession of the persons to whom permanent account numbers have been allotted, in which such numbers shall be quoted by them.";

(*iii*) in the *Explanation*, clause (*a*) shall be omitted.

Amendment of section 140.

**44.** In section 140 of the Income-tax Act,—

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) in the case of an individual,—

(*i*) by the individual himself;

(*ii*) where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf;

(*iii*) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

(*iv*) where, for any other reason, it is not possible for the individual to sign the return, by any person duly authorised by him in this behalf:

Provided that in a case referred to in sub-clause (*ii*) or sub-clause (*iv*), the person signing the return holds a valid power of attorney from the individual to do so, which shall be attached to the return;";

(*ii*) to clause (*c*), the following provisos shall be added, namely:—

"Provided that where the company is not resident in India, the return may be signed and verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return:

Provided further that,—

(*a*) where the company is being wound up, whether under the orders of a court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be signed and verified by the liquidator referred to in sub-section (*1*) of section 178;

(*b*) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be signed and verified by the principal officer thereof;";

(*iii*) after clause (*d*), the following clause shall be inserted, namely:—

"(*dd*) in the case of a political party referred to in sub-section (*4B*) of section 139, by the chief executive officer of such party (whether such chief executive officer is known as secretary or by any other designation);".

Amendment of section 140A.

**45.** In section 140A of the Income-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "the assessee shall be liable to pay such tax before furnishing the return and the return shall be accom-

panied by proof of payment of such tax", the following shall be substituted, namely:—

"the assessee shall be liable to pay such tax, together with interest payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest";

(*ii*) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—Where the amount paid by the assessee under this sub-section falls short of the aggregate of the tax and interest as aforesaid, the amount so paid shall first be adjusted towards the interest payable as aforesaid and the balance, if any, shall be adjusted towards the tax payable.";

(*b*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) If any assessee fails to pay the whole or any part of such tax or interest or both in accordance with the provisions of sub-section (*1*), he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid, and all the provisions of this Act shall apply accordingly.".

**46.** Section 141A of the Income-tax Act shall be omitted. Omission of section 141A.

**47.** In section 142 of the Income-tax Act, in sub-section (*1*),— Amendment of section 142.

(*a*) in the opening paragraph, for the words, brackets and figures "or to whom a notice has been issued under sub-section (*2*) of section 139 (whether a return has been made or not)", the words, brackets and figure "or in whose case the time allowed under sub-section (*1*) of that section for furnishing the return has expired" shall be substituted;

(*b*) clauses (*i*) and (*ii*) shall be re-numbered as clauses (*ii*) and (*iii*) thereof respectively, and before clause (*ii*) as so re-numbered, the following clause shall be inserted, namely:—

"(*i*) where such person has not made a return before the end of the relevant assessment year, to furnish a return of his income or the income of any other person in respect of which he is assessable under this Act, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, or",

Substitution of new section for section 143.

48. For section 143 of the Income-tax Act, the following section shall be substituted, namely:—

Assessment.

"143. (1) (*a*) Where a return has been made under section 139, or in response to a notice under sub-section (*1*) of section 142,—

(*i*) if any tax or interest is found due on the basis of such return, after adjustment of any tax deducted at source, any advance tax paid and any amount paid otherwise by way of tax or interest, then, without prejudice to the provisions of sub-section (*2*), an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of this Act shall apply accordingly; and

(*ii*) if any refund is due on the basis of such return, it shall be granted to the assessee:

Provided that in computing the tax or interest payable by, or refundable to, the assessee, the following adjustments shall be made in the income or loss declared in the return, namely:—

(*i*) any arithmetical errors in the return, accounts or documents accompanying it shall be rectified;

(*ii*) any loss carried forward, deduction, allowance or relief, which, on the basis of the information available in such return, accounts or documents, is *prima facie* admissible but which is not claimed in the return, shall be allowed;

(*iii*) any loss carried forward, deduction, allowance or relief claimed in the return, which, on the basis of the information available in such return, accounts or documents, is *prima facie* inadmissible, shall be disallowed.

(*b*) Where, as a result of an order made under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, or any order of settlement made under sub-section (4) of section 245D relating to any earlier assessment year and passed subsequent to the filing of the return referred to in clause (*a*), there is any variation in the carry forward loss, deduction, allowance or relief claimed in the return, and as a result of which,—

(*i*) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of this Act shall apply accordingly, and

(*ii*) if any refund is due, it shall be granted to the assessee:

Provided that an intimation for any tax or interest due under this clause shall not be sent after the expiry of four years from the end of the financial year in which any such order was passed.

(2) In a case referred to in sub-section (1), if the Assessing Officer considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, he shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend his office or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of the financial year in which the return is furnished or the expiry of six months from the end of the month in which the return is furnished, whichever is later.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him on the basis of such assessment.".

Amendment of section 144.

**49.** In section 144 of the Income-tax Act,—

(a) in clause (a), for the words, brackets and figures "by any notice given under sub-section (2) of section 139", the words, brackets and figures "under sub-section (1) of section 139" shall be substituted;

(b) for the words "shall make the assessment", the words "shall, after giving the assessee an opportunity of being heard, make the assessment" shall be substituted;

(c) the words "or refundable to the assessee" shall be omitted;

(d) the following provisos shall be added at the end, namely:—

"Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (1) of section 142 has been issued prior to the making of an assessment under this section.".

Amendment of section 144A.

**50.** In section 144A of the Income-tax Act, sub-section (2) shall be omitted.

Omission of section 144B.

**51.** Section 144B of the Income-tax Act shall be omitted.

Amendment of section 145.

52. In section 145 of the Income-tax Act, in sub-section (*1*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where no method of accounting is regularly employed by the assessee, any income by way of interest on securities shall be chargeable to tax as the income of the previous year in which such interest is due to the assessee.".

Omission of section 146.

53. Section 146 of the Income-tax Act shall be omitted.

Substitution of new sections for sections 147 and 148.

54. For sections 147 and 148 of the Income-tax Act, the following sections shall be substituted, namely:—

Income escaping assessment.

"147. If the Assessing Officer, for reasons to be recorded by him in writing, is of the opinion that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year):

Provided that where an assessment under sub-section (*3*) of section 143 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (*1*) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment for that assessment year.

*Explanation* 1.—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

*Explanation* 2.—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely:—

(*a*) where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax;

(*b*) where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;

(*c*) where an assessment has been made, but—

(*i*) income chargeable to tax has been underassessed; or

(*ii*) such income has been assessed at too low a rate; or

(*iii*) such income has been made the subject of excessive relief under this Act; or

(*iv*) excessive loss or depreciation allowance or any other allowance under this Act has been computed.

Issue of notice where income has escaped assessment.

148. Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139.".

Amendment of section 149.

55. In section 149 of the Income-tax Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) No notice under section 148 shall be issued for the relevant assessment year,—

(*a*) in a case where an assessment under sub-section (*3*) of section 143 or section 147 has been made for such assessment year,—

(*i*) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (*ii*) or sub-clause (*iii*);

(*ii*) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year;

(*iii*) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to more than rupees one lakh or more for that year;

(*b*) in any other case,—

(*i*) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (*ii*) or sub-clause (*iii*);

(*ii*) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees twenty-five thousand or more for that year;

(*iii*) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year.

*Explanation.*—In determining income chargeable to tax which has escaped assessment for the purposes of this sub-section, the provisions of *Explanation* 2 of section 147 shall apply as they apply for the purposes of that section.".

Amendment of section 150.

56. In section 150 of the Income-tax Act, in sub-section (*1*), the words "or by a court in any proceeding under any other law" shall be added at the end.

Substitution of new section for section 151.

57. For section 151 of the Income-tax Act, the following section shall be substituted, namely:—

Sanction for issue of notice.

"151. (*1*) In a case where an assessment under sub-section (*3*) of section 143 or section 147 has been made for the relevant assessment year, no notice shall be issued under section 148 except by an Assessing Officer of the rank of Assistant Commissioner or Deputy Commissioner:

Provided that, after the expiry of four years from the end of the relevant assessment year, no such notice shall be issued unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer aforesaid, that it is a fit case for the issue of such notice.

(*2*) In a case other than a case falling under sub-section (*1*), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Deputy Commissioner, after the expiry of four years from the end of the relevant assessment year, unless the Deputy Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.".

Amendment of section 152.

58. In section 152 of the Income-tax Act, in sub-section (*2*), for the words, brackets, letter and figures "in circumstances falling under clause (*b*) of section 147", the words and figures "under section 147" shall be substituted.

Amendment of section 153.

59. In section 153 of the Income-tax Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) No order of assessment shall be made under section 143 or section 144 at any time after the expiry of two years

from the end of the assessment year in which the income was first assessable.";

(*b*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) No order of assessment, reassessment or recomputation shall be made under section 147 after the expiry of two years from the end of the financial year in which the notice under section 148 was served:

Provided that where the notice under section 148 was served on or before the 31st day of March, 1987, such assessment, reassessment or recomputation may be made at any time up to the 31st day of March, 1990.";

(*c*) clause (*iv*) of *Explanation* 1 shall be omitted.

Amendment of section 154.

**60.** In section 154 of the Income-tax Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) With a view to rectifying any mistake apparent from the record an income-tax authority referred to in section 116 may—

(*a*) amend any order passed by it under the provisions of this Act;

(*b*) amend any intimation sent by it under sub-section (*1*) of section 143, or enhance or reduce the amount of refund granted by it under that sub-section.".

Amendment of section 155.

**61.** In section 155 of the Income-tax Act,—

(*a*) in sub-section (*1*), in the opening paragraph, for the words "Where in respect of any completed assessment of a partner in a firm", the words, figures and letters "Where, in respect of any completed assessment of a partner in a firm for the assessment year commencing on the 1st day of April, 1989, or any earlier assessment year," shall be substituted;

(*b*) sub-sections (3) and (*13*) shall be omitted;

(c) sub-sections (*5B*), (*6*), (*7A*), (*8*), (*8A*), (*9*), (*9A*), (*10*), (*10B*) and (*10C*) shall be omitted with effect from the 1st day of April, 1992.

Amendment of section 158.

**62.** In section 158 of the Income-tax Act, for the words "Whenever a registered firm is assessed", the words, figures and letters "Whenever, in respect of the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, a registered firm is assessed" shall be substituted.

Insertion of new Chapter XIV-B.

**63.** After section 158A of the Income-tax Act, the following Chapter shall be inserted, namely:—

"CHAPTER XIV-B

CHARGE OF ADDITIONAL INCOME-TAX IN CERTAIN CASES

Additional income-tax.

158B. (*1*) Where, in the case of any person, the total income determined in the regular assessment for any assessment year (hereafter in this section referred to as assessed income) exceeds the total income declared in the return of income furnished by such person for that assessment year (hereafter in this section referred to as returned income) by any amount, the Assessing Officer shall make an order in writing that such person shall, apart from the sum determined as payable by him on the basis of the assessment under section 143 or section 144, be liable to pay, by way of additional income-tax, in respect of the said assessment year, a sum calculated on such excess amount at the rate of thirty per cent.

(*2*) For the purposes of sub-section (*1*),—

(*a*) where such person has furnished two or more returns of income for the same assessment year, the total income declared in the return furnished last before the service of a notice under sub-section (*2*) of section 143 on such person shall be treated as the returned income;

(*b*) where such person fails to furnish the return of income in respect of any assessment year and the assessment for that year is made under section 144, the returned income shall be taken to be the total income on which tax, by way of advance tax, deduction of tax at source and otherwise, has been paid, and where no such tax has been paid, the returned income shall be taken to be *nil*;

(*c*) where such person fails to furnish a return of income for any assessment year under section 139, but furnishes such return after he is served with a notice under section 148, the returned income shall be taken to be the total income on which tax, by way of advance tax, deduction of tax at source and otherwise, has been paid, and where no such tax has been paid, the returned income shall be taken to be *nil*;

(*d*) where such person has furnished a return of loss under sub-section (*3*) of section 139 for any assessment year, the additional income-tax under sub-section (*1*) shall be calculated at the rate specified in that sub-section on the sum or, as the case may be, the aggregate of the sums by which the loss is reduced to a lower amount or, as the case may be, converted into a positive amount of income in the regular assessment.

(*3*) Where, as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of settlement passed under sub-section (*4*) of section 245D, the amount on which the additional income-tax is payable under sub-section (*1*) has been

increased or reduced, as the case may be, the additional income-tax shall be increased or reduced accordingly, and,—

(*i*) in a case where the additional income-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and all the provisions of this Act shall apply accordingly;

(*ii*) in a case where the additional income-tax is reduced, the excess amount paid, if any, shall be refunded.

(*4*) The Chief Commissioner or Commissioner may, in his discretion, whether on his own motion or otherwise, waive or reduce the amount of additional income-tax payable under sub-section (*1*) by any person, if he is satisfied that the whole or, as the case may be, any part of the excess amount referred to in that sub-section is attributable to any amount added or disallowed in computing the assessed income or loss as a result of the rejection of any explanation (by way of interpretation of any provision of this Act or otherwise) offered by such person, if such explanation is *bona fide* and all the facts relating to the same and material to the computation of the assessed income or loss have been disclosed by him:

**Provided that—**

(*i*) where an appeal before the Deputy Commissioner (Appeals) or the Commissioner (Appeals) has also been filed by the assessee against the order of assessment, the petition for waiver or reduction of the amount of additional income-tax can be filed by the assessee only after the decision on such appeal;

(*ii*) the petition for waiver or reduction of the amount of additional income-tax shall be accompanied by a fee of one hundred rupees.

(*5*) Where, in the course of a search under section 132, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income,—

(*a*) for any previous year which has ended before the date of the search, but the return of income for such year has not been furnished before the said date or, where such return has been furnished before the said date, such income has not been declared therein; or

(b) for any previous year which is to end on or after the date of the search,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, such income shall not, for the purposes of liability to the additional income

tax under this section, be treated as forming part of the returned income, unless,—

(*i*) such income is, or the transactions resulting in such income are, recorded,—

(*A*) in a case falling under clause (*a*), before the date of the search; and

(*B*) in a case falling under clause (*b*), on or before the date of the search,

in the books of account, if any, maintained by him for any source of income or such income is otherwise disclosed to the Chief Commissioner or Commissioner before the said date; or

(*ii*) the assessee, in the course of the search, makes a statement under sub-section (*4*) of section 132 that the money, bullion, jewellery or other valuable article or thing found in his possession or under his control, has been acquired out of his income which has not been disclosed so far in his return of income to be furnished before the expiry of the time specified in sub-section (*1*) of section 139, and also specifies in the statement the manner in which such income has been derived and pays the tax together with interest, if any, in respect of such income.

(*6*) The additional income-tax payable under this section shall not be included—

(*i*) in the amount of the tax payable on the total income as determined on regular assessment, for the purposes of sub-section (*1*) of section 234A; or

(*ii*) in the amount of the assessed tax, for the purposes of sub-section (*1*) of section 234B.".

Amendment of section 164.

**64.** In section 164 of the Income-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) in the opening portion, for the brackets, figures and words "(*1*) Subject to the provisions of sub-sections (*2*) and (*3*), where", the word "Where" shall be substituted;

(*ii*) in the first proviso, for the words "association of persons", in the two places where they occur, the word "individual" shall be substituted;

(*b*) sub-sections (*2*) and (*3*), and *Explanation* 2 shall be omitted.

Amendment of section 164A.

**65.** In section 164A of the Income-tax Act, in the *Explanation*, clause (*i*) shall be omitted.

Substitution of new sections for section 167A.

**66.** In Chapter XV of the Income-tax Act, for the sub-heading *"DD.—Association of persons—special cases"*, and section 167A below it, the following shall be substituted, namely:—

*"DD.—Firms, association of persons and body of individuals*

Charge of tax in the case of a firm.

167A. In the case of a firm which is assessable as a firm, tax shall be charged on its total income at the maximum marginal rate.

Charge of tax where shares of members in association of persons or body of individuals unknown, etc.

167B. (*1*) Where the individual shares of the members of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India] in the whole or any part of the income of such association or body are indeterminate or unknown, tax shall be charged on the total income of the association or body at the maximum marginal rate.

21 of 1860.

(2) Where, in the case of an association of persons or body of individuals as aforesaid [not being a case falling under sub-section (*1*)], the total income of any member thereof for the previous year (excluding his share from such association or body) exceeds the maximum amount which is not chargeable to tax in the case of an individual under the Finance Act of the relevant year, tax shall be charged on the total income of the association or body at the maximum marginal rate:

Provided that, where the total income of any member of such association or body (whether or not it exceeds the maximum amount aforesaid) is chargeable to tax at a rate which is higher than the maximum marginal rate, tax shall be charged on the total income of the association or body at such higher rate.

*Explanation.*—For the purposes of this section, the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body shall be deemed to be indeterminate or unknown if such shares (in relation to the whole or any part of such income) are indeterminate or unknown on the date of formation of such association or body or at any time thereafter.".

Omission of sections 182 and 183.

67. Sub-heading "*A.—Assessment of firms*" and sections 182 and 183 of the Income-tax Act shall be omitted.

Substitution of new sections for sections 184, 185 and 186.

68. For the sub-heading "*B.—Registration of firms*" before section 184, and for sections 184, 185 and 186 of the Income-tax Act, the following sections shall be substituted, namely:—

Assessment as a firm.

"184. (*1*) A firm shall be assessed as a firm for the purposes of this Act, if—

(*i*) the partnership is evidenced by an instrument; and

(*ii*) the individual shares of the partner are specified in that instrument.

(2) A certified copy of the instrument of partnership referred to in sub-section (1) shall accompany the return of income of the firm of the previous year for the assessment year in respect of which assessment as a firm is first sought.

*Explanation.*—For the purposes of this sub-section, the copy of the instrument of partnership shall be certified in writing by all the partners (not being minors) or, where the return is made after the dissolution of the firm, by all persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased.

(3) The return of income referred to in sub-section (2) shall be signed and verified by all the partners, not being minors.

(4) Where a firm is assessed as such for any assessment year, it shall be assessed in the same capacity for every subsequent year if there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the assessment as a firm was first sought.

(5) Where any such change had taken place in the previous year, the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income for the assessment year relevant to such previous year and all the provisions of this section shall apply accordingly.

(6) Notwithstanding anything contained in the foregoing provisions of this section, where, in respect of any assessment year, there is, on the part of a firm any such failure as is mentioned in section 144, the firm shall not be assessed as such for the said assessment year and, thereupon, the firm shall be assessed in the same manner as an association of persons, and all the provisions of this Act shall apply accordingly.

Assessment when section 184 not complied with.

185. Where a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be assessed for that assessment year in the same manner as an association of persons, and all the provisions of this Act shall apply accordingly.".

Amendment of section 187.

69. In section 187 of the Income-tax Act, in sub-section (1), the proviso shall be omitted.

Insertion of new section 188A.

70. After section 188 of the Income-tax Act, the following section shall be inserted, namely:—

Joint and several liability of partners for tax payable by firm.

"188A. Every person who was, during the previous year, a partner of a firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for the assessment year to which such previous year is relevant, and all the provisions of this Act, so far as may be, shall apply to the assessment of such tax or imposition or levy of such penalty or other sum.".

71. In section 189 of the Income-tax Act, the *Explanation* below sub-section (3) shall be omitted. Amendment of section 189.

72. In Chapter XVI of the Income-tax Act, after section 189, the following section shall be inserted, namely:— Insertion of new section 189A.

"189A. In relation to the assessment of any firm and its partners for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, the provisions of this Chapter as they stood immediately before the date of commencement of the Direct Tax Laws (Amendment) Act, 1987, shall continue to apply.". Provisions applicable to past assessments of firms.

73. In section 194A of the Income-tax Act, in sub-section (3), clause (*iv*) shall be omitted with effect from the 1st day of April, 1988. Amendment of section 194A.

74. After section 194D of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1988, namely:— Insertion of new section 194E.

"194E. (*1*) Any person assessable as a firm who is responsible for paying to a partner any income by way of,— Interest, salary, bonus, commission or remuneration to partners.

(*a*) interest on capital or any other sum borrowed by it from the partner;

(*b*) salary, bonus, commission or remuneration, by whatever name called,

shall at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax on the estimated amount of the interest or, as the case may be, salary, bonus, commission or remuneration aforesaid due to the partner during the financial year at the average rate of income-tax computed on the basis of the rates in force for that financial year in which such income is credited or paid to the partner.

(*2*) Where, during the financial year, an assessee derives such income simultaneously from more than one firm or where he was successively a partner in more than one firm, he may furnish to the firm responsible for making the payment referred to in sub-section (*1*) (being one of the said firms as the assessee may, having regard to the circumstances of his case, choose), such details of the payments referred to in sub-section (*1*) due or received by him from the other firm or firms, the tax deducted at source therefrom and such other particulars, in such form and verified in such manner as may be prescribed, and thereupon the firm responsible for making the payment referred to above shall take into account the details so furnished for the purposes of making the deduction under sub-section (*1*).

(*3*) Where an assessee who receives the payments referred to in sub-section (*1*) has, in addition, any income other than the income

referred to in sub-section (*1*) (not being a loss under any head of income) for the same financial year, he may send to the firm responsible for making the payment referred to in sub-section (*1*) the particulars of such other income and of any tax deducted thereon under any other provision of this Chapter, in such form and verified in such manner as may be prescribed and thereupon the firm responsible as aforesaid shall take such other income and the tax, if any, deducted thereon also into account for the purposes of making the deduction under sub-section (*1*):

Provided that this sub-section shall not in any case have the effect of reducing the tax deductible from the payments referred to in sub-section (*1*) below the amount that would be so deductible if the other income and the tax deducted thereon had not been taken into account.

(*4*) The firm responsible for making the payment referred to in sub-section (*1*) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.".

Substitution of new sections for section 196.

**75.** For section 196 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:—

Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations.

"196. Notwithstanding anything contained in the foregoing provisions of this Chapter, no deduction of tax shall be made by any person from any sums payable to—

(*i*) the Government, or

(*ii*) the Reserve Bank of India, or

(*iii*) a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income, or

(*iv*) a Mutual Fund specified under clause (*23D*) of section 10,

where such sum is payable to it by way of interest or dividend in respect of any securities or shares owned by it or in which it has full beneficial interest, or any other income accruing or arising to it.

Tax not to be deducted from any sums payable to unit-holders of Mutual Fund.

196A. Notwithstanding anything contained in the foregoing provisions of this Chapter, no deduction of tax shall be made by a public sector bank or a public financial institution referred to in clause (*23D*) of section 10 from any sums payable to unit-holders of a Mutual Fund specified under that clause.".

Substitution of new sections for sections 207 and 208.

76. For sections 207 and 208 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:—

Liability for payment of advance tax.

'207. Tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219 (both inclusive), in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year, such income being hereafter in this Chapter referred to as "current income".

Conditions of liability to pay advance tax.

208. Advance tax shall be payable during a financial year in every case where the amount of such tax payable by the assessee during that year, as computed in accordance with the provisions of this Chapter, is one thousand five hundred rupees or more.'.

Amendment of section 209.

77. In section 209 of the Income-tax Act, with effect from the 1st day of April, 1988,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The amount of advance tax payable by an assessee in the financial year shall, subject to the provisions of sub-sections (*2*) and (*3*), be computed as follows, namely:—

(*a*) where the calculation is made by the assessee for the purposes of payment of advance tax under sub-section (*1*) or sub-section (*2*) or sub-section (*5*) or sub-section (*6*) of section 210, he shall first estimate the current income and income-tax thereon shall be calculated at the rates in force in the financial year;

(*b*) where the calculation is made by the Assessing Officer for the purpose of making an order under sub-section (*3*) of section 210, the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment or the total income returned by the assessee in any return of income furnished by him for any subsequent previous year, whichever is higher, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(c) where the calculation is made by the Assessing Officer for the purpose of making an amended order under sub-section (*4*) of section 210, the total income declared in the return furnished by the assessee for the later previous year, or, as the case may be, the total income in respect of which the regular assessment, referred to in that sub-section has been made, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(*d*) the income-tax calculated under clause (*a*) or clause (*b*) or clause (c) shall, in each case, be reduced by the amount of income-tax which would be deductible at

Source during the said financial year under any provision of this Act from any income (as computed before allowing any deductions admissible under this Act) which has been taken into account in computing the current income or as the case may be, the total income aforesaid; and the amount of income-tax as so reduced shall be the advance tax payable.";

(*b*) in sub-section (*2*),—

(*i*) in clause (*a*),—

(*A*) in the opening portion, for the words, brackets, figures and letter "where the assessee sends a statement under sub-section (*1*) of section 209A or where the Income-tax Officer makes an order under sub-section (*1*) or sub-section (*3*) of section 210", the words, brackets and figures "where the Assessing Officer makes an order under sub-section (*3*) or sub-section (*4*) of section 210" shall be substituted;

(*B*) for sub-clause (*ii*), the following sub-clause shall be substituted, namely:—

"(*ii*) if the total income declared by the assessee for the later previous year referred to in sub-section (*4*) of section 210 forms the basis of computation of advance tax, the net agricultural income as returned by the assessee in the return of income for the assessment year relevant to such later previous year;";

(*ii*) for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) in cases where the advance tax is paid by the assessee on the basis of his estimate of his current income under sub-section (*1*) or sub-section (*2*) or sub-section (*5*) or sub-section (*6*) of section 210, the net agricultural income, as estimated by him, of the period which would be the previous year for the immediately following assessment year;";

(*c*) in sub-section (*3*),—

(*i*) in the opening portion, for the words and figures "under section 210", the words, brackets and figures "under sub-section (*3*) or sub-section (*4*) of section 210" shall be substituted;

(*ii*) in clause (*b*), for the words, figures and letter "on the basis of which tax has been paid by the Hindu undivided family under section 140A", the words, figures and brackets "in respect of which a return of income is furnished by the Hindu undivided family under section 139 or in response to a notice under sub-section (*1*) of section 142" shall be substituted.

Omission of section 209A.

78. Section 209A of the Income-tax Act shall be omitted with effect from the 1st day of April, 1988.

Substitution of new section for section 210.

**79.** For section 210 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Payment of advance tax by the assessee of his own accord or in pursuance of order of Assessing Officer.

"210. (1) Every person who is liable to pay advance tax under section 208 (whether or not he has been previously assessed by way of regular assessment) shall, of his own accord, pay, on or before each of the due dates specified in section 211, the appropriate percentage, specified in that section, of the advance tax on his current income, calculated in the manner laid down in section 209.

(2) A person who pays any instalment or instalments of advance tax under sub-section (1), may increase or reduce the amount of advance tax payable in the remaining instalment or instalments to accord with his estimate of his current income and the advance tax payable thereon, and make payment of the said amount in the remaining instalment or instalments accordingly.

(3) In the case of a person who has been already assessed by way of regular assessment in respect of the total income of any previous year and who has not paid any advance tax under sub-section (1), the Assessing Officer, if he is of opinion that such person is liable to pay advance tax, may, at any time during the financial year but not later than the last day of February, by order in writing, require such person to pay advance tax calculated in the manner laid down in section 209, and issue to such person a notice of demand under section 156 specifying the instalment or instalments in which such tax is to be paid.

(4) If, after the making of an order by the Assessing Officer under sub-section (3) and at any time before the 1st day of March, a return of income is furnished by the assessee under section 139 or in response to a notice under sub-section (1) of section 142, or a regular assessment of the assessee is made, in respect of a previous year later than that referred to in sub-section (3), the Assessing Officer may make an amended order and issue to such assessee a notice of demand under section 156 requiring the assessee to pay, on or before the due date or each of the due dates specified in section 211 falling after the date of the amended order, the appropriate percentage, specified in section 211, of the advance tax computed on the basis of the total income declared in such return or in respect of which the regular assessment aforesaid has been made.

(5) A person who is served with an order of the Assessing Officer under sub-section (3) or an amended order under sub-section (4) may, if in his estimation the advance tax payable on his current income would be less than the amount of the advance tax specified in such order or amended order, send an intimation in the prescribed form to the Assessing Officer to that effect and pay such advance tax as accords with his estimate, calculated in the manner laid down in section 209, at the appropriate percentage thereof specified in section 211, on or before the due date or each of the due dates specified in section 211 falling after the date of such intimation.

(6) A person who is served with an order of the Assessing Officer under sub-section (3) or amended order under sub-section (4) shall, if in his estimation the advance tax payable on his current income would exceed the amount of advance tax specified in such order or amended order or intimated by him under sub-section (5), pay on or before the due date of the last instalment specified in section 211, the appropriate part or, as the case may be, the whole of such higher amount of advance tax as accords with his estimate, calculated in the manner laid down in section 209.".

Substitution of new section for section 211.

80. For section 211 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Instalments of advance tax and due dates.

"211. (1) Advance tax on the current income, calculated in the manner laid down in section 209 shall be payable by all the assessees who are liable to pay the same in three instalments during each financial year, the due date of, and the amount payable in, each such instalment being as specified in the following Table:

TABLE

| Due date of instalment | Amount payable |
|---|---|
| On or before the 15th September | Not less than twenty per cent. of such advance tax. |
| On or before the 15th December | Not less than fifty per cent. of such advance tax, as reduced by the amount, if any, paid in the earlier instalment |
| On or before the 15th March | The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments: |

Provided that any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.

(2) If the notice of demand issued under section 156 in pursuance of an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 is served after any of the due dates specified in sub-section (1), the appropriate part or, as the case may be, the whole of the amount of the advance tax specified in such notice shall be payable on or before each of such of those dates as fall after the date of service of the notice of demand.".

Omission of sections 212 and 213.

81. Sections 212 and 213 of the Income-tax Act shall be omitted with effect from the 1st day of April, 1988.

Amendment of section 214.

82. In section 214 of the Income-tax Act,—

(*a*) in sub-section (*1AA*), after the word and figures "section 264", the words, brackets, figures and letter "or an order of the Settlement Commission under sub-section (*4*) of section 245D" shall be inserted;

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) This section and sections 215, 216 and 217 shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989 or any subsequent assessment year and, in the application of the said sections to the assessment for any earlier assessment year, references therein [except in sub-section (*1A*) and sub-section (*3*) of section 215] to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.".

Amendment of section 215.

83. In section 215 of the Income-tax Act, in sub-section (*3*), after the word and figures "section 264", the words, brackets, figures and letter "or an order of the Settlement Commission under sub-section (*4*) of section 245D" shall be inserted.

Substitution of new section for section 218.

84. For section 218 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

When assessee deemed to be in default.

"218. If any assessee does not pay on the date specified in sub-section (*1*) of section 211, any instalment of advance tax that he is required to pay by an order of the Assessing Officer under sub-section (*3*) or sub-section (*4*) of section 210 and does not, on or before the date on which any such instalment as is not paid becomes due, send to the Assessing Officer an intimation under sub-section (*5*) of section 210 or does not pay on the basis of his estimate of his current income the advance tax payable by him under sub-section (*6*) of section 210, he shall be deemed to be an assessee in default in respect of such instalment or instalments.".

Amendment of section 220.

85. In section 220 of the Income-tax Act,—

(*a*) in sub-section (*1*), for the words "thirty-five days", wherever they occur, the words "thirty days" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) for the words, brackets and figures "fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub-section (*1*)", the words, brackets and figure "one and one-half per cent. for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (*1*) and ending with the day on which the amount is paid" shall be substituted;

(*ii*) in the proviso, after the word and figures "section 264", the words, brackets, figures and letter "or an order of the Settlement Commission under sub-section (*4*) of section 245D" shall be inserted;

(*iii*) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that in respect of any period commencing on or before the 31st day of March, 1989 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent. for every month or part of a month.".

**Amendment of section 222.**

86. In section 222 of the Income-tax Act,—

(*a*) in sub-section (*1*), for the portion beginning with the words "When an assessee is in default" and ending with the words "in accordance with the rules laid down in the Second Schedule—", the following shall be substituted, namely:—

'When an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may draw up under his signature a statement in the prescribed form specifying the amount of arrears due from the assessee (such statement being hereafter in this Chapter and in the Second Schedule referred to as "certificate") and shall proceed to recover from such assessee the amount specified in the certificate by one or more of the modes mentioned below, in accordance with the rules laid down in the Second Schedule—';

(*b*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The Tax Recovery Officer may take action under sub-section (*1*), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.".

**Substitution of new sections for sections 223, 224 and 225.**

87. For sections 223, 224 and 225 of the Income-tax Act, the following sections shall be substituted, namely:—

**Tax Recovery Officer by whom recovery is to be effected.**

"223. (*1*) The Tax Recovery Officer competent to take action under section 222 shall be—

(*a*) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose jurisdiction the principal place of his business or profession is situate, or

(*b*) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situate,

the jurisdiction for this purpose being the jurisdiction assigned to the Tax Recovery Officer under the orders or directions issued by the Board, or by the Chief Commissioner or Commissioner who is authorised in this behalf by the Board in pursuance of section 120.

(2) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer by whom the certificate is drawn up—

(*a*) is not able to recover the entire amount by sale of the property, movable or immovable, within his jurisdiction, or

(*b*) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Chapter, it is necessary so to do, he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to a Tax Recovery Officer within whose jurisdiction the assessee resides or has property and, thereupon, that Tax Recovery Officer shall also proceed to recover the amount under this Chapter as if the certificate or copy thereof had been drawn up by him.

Validity of certificate and cancellation or amendment thereof.

224. It shall not be open to the assessee to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground whatsoever, but it shall be lawful for the Tax Recovery Officer to cancel the certificate if, for any reason, he thinks it necessary so to do, or to correct any clerical or arithmetical mistake therein.

Stay of proceedings in pursuance of certificate and amendment or cancellation thereof.

225. (*1*) It shall be lawful for the Tax Recovery Officer to grant time for the payment of any tax and when he does so, he shall stay the proceedings for the recovery of such tax until the expiry of the time so granted.

(2) Where the order giving rise to a demand of tax for which a certificate has been drawn up is modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Act, the Tax Recovery Officer shall stay the recovery of such part of the amount specified in the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(3) Where a certificate has been drawn up and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the Tax Recovery Officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate, or cancel it, as the case may be.".

Amendment of section 226.

88. In section 226 of the Income-tax Act,—

(*a*) for sub-section (*1*), the following sub-sections shall be substituted, namely:—

"(*1*) Where no certificate has been drawn up under section 222, the Assessing Officer may recover the tax by any one or more of the modes provided in this section.

(*1A*) Where a certificate has been drawn up under section 222, the Tax Recovery Officer may, without prejudice to the modes of recovery specified in that section, recover the tax by any one or more of the modes provided in this section.";

(*b*) in sub-sections (*2*), (*3*), (*4*) and (*5*), for the words "Income-tax Officer", wherever they occur, the words "Assessing Officer or Tax Recovery Officer" shall be substituted.

Omission of section 228.

**89.** Section 228 of the Income-tax Act shall be omitted.

Amendment of section 228A.

**90.** In section 228A of the Income-tax Act,—

(*a*) in sub-section (*1*), in clause (*a*), for the words "specified in a certificate received from an Income-tax Officer", the words and figures "specified in a certificate drawn up by him under section 222" shall be substituted;

(*b*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) Where an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may, if the assessee has property in a country outside India (being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), forward to the Board a certificate drawn up by him under section 222 and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.".

Amendment of section 230.

**91.** In section 230 of the Income-tax Act, in sub-section (*1*), for the portion beginning with the words "no person who is not domiciled in India", and ending with the words "shall leave the territory of India", the following shall be substituted, namely:—

"no person—

(*a*) who is not domiciled in India; or

(*b*) who is domiciled in India at the time of his departure, but—

(*i*) intends to leave India as an emigrant; or

(*ii*) intends to proceed to another country on a work permit with the object of taking up any employment or other occupation in that country; or

(*iii*) in respect of whom circumstances exist which in the opinion of an income-tax authority, render it necessary for him to obtain a certificate under this section,

shall leave the territory of India".

Amendment of section 230A.

**92.** In section 230A of the Income-tax Act, in sub-section (*1*), for the words "fifty thousand rupees", the words "one lakh rupees" shall be substituted.

Omission of section 231.

**93.** Section 231 of the Income-tax Act shall be omitted.

Insertion of new sections 234A, 234B and 234C.

**94.** In Chapter XVII of the Income-tax Act, after section 234, the following heading and sections shall be inserted, namely:—

*'F.—Interest chargeable in certain cases*

Interest for defaults in furnishing return of income.

234A. (*1*) Where the return of income for any assessment year under sub-section (*1*) or sub-section (*4*) of section 139, or in response to a notice under sub-section (*1*) of section 142, is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,—

(*a*) where the return is furnished after the due date, ending on the date of furnishing of the return; or

(*b*) where no return has been furnished, ending on the date of completion of the assessment under section 144,

on the amount of the tax on the total income as determined on regular assessment as reduced by the advance tax, if any, paid and any tax deducted at source.

*Explanation* 1.—In this section, "due date" means the date specified in sub-section (*1*) of section 139 as applicable in the case of the assessee.

*Explanation* 2.—In this sub-section and sub-section (*3*), "tax on the total income as determined on regular assessment" shall not include the additional income-tax, if any, payable under section 158B.

*Explanation* 3.—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(*2*) The interest payable under sub-section (*1*) shall be reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section.

(*3*) Where the return of income for any assessment year, required by a notice under section 148 issued after the completion of an assessment under sub-section (*3*) of section 143 or section 144 or section 147, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent., for every month or part

of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

(*a*) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(*b*) where no return has been furnished, ending on the date of completion of the re-assessment or re-computation under section 147,

on the amount by which the tax on the total income determined on the basis of such re-assessment or re-computation exceeds the tax on the total income determined on the basis of the earlier assessment aforesaid.

*Explanation.*—In this sub-section, "tax on the total income determined on the basis of the re-assessment or re-computation under section 147" shall not include the additional income-tax, if any, payable under section 158B.

(*4*) Where, as a result of an order under section 154 of section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (*4*) of section 245D, the amount of tax on which interest was payable under sub-section (*1*) or sub-section (*3*) of this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(*i*) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(*ii*) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(*5*) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

Interest for defaults in payment of advance tax.

234B. (*1*) Subject to the other provisions of this section, where, in any financial year, an assessee who is liable to pay advance tax under section 208 has failed to pay such tax or, where the advance tax paid by such assessee under the provisions of section 210 is less than ninety per cent. of the assessed tax, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period from the 1st day of April next following such financial year to the date of the regular assessment, on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax.

*Explanation* 1.—In this section, "assessed tax" means the tax on the total income determined on the basis of the regular assessment, as reduced by the amount of tax deducted at source in accordance with the provisions of Chapter XVIIB on any income

which is subject to such deduction and which is taken into account in computing such total income.

*Explanation* 2.—Where in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

*Explanation* 3.—In *Explanation* 1 and in sub-section (3), "tax on the total income determined on the basis of the regular assessment" shall not include the additional income-tax, if any, payable under section 158B.

(2) Where, before the date of completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

(*i*) interest shall be calculated in accordance with the foregoing provisions of this section up to the date on which the tax is so paid, and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section;

(*ii*) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

(3) Where, as a result of an order of re-assessment or re-computation under section 147, the amount on which interest was payable under sub-section (*1*) is increased, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the day following the date of the regular assessment referred to in sub-section (*1*) and ending on the date of the re-assessment or re-computation under section 147, on the amount by which the tax on the total income determined on the basis of the re-assessment or re-computation exceeds the tax on the total income determined on the basis of the regular assessment aforesaid.

*Explanation*.—In this sub-section "tax on the total income determined on the basis of the re-assessment or re-computation under section 147" shall not include the additional income-tax, if any, payable under section 158B.

(4) Where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under sub-section (*1*) or sub-section (*3*) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(*i*) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(*ii*) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

Interest for deferment of advance tax.

234C. (1) Where in any financial year, the advance tax paid by the assessee on his current income on or before the 15th day of September is less than twenty per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than fifty per cent. of the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent. per month of the shortfall from for a period of three months on the amount of the shortfall from twenty per cent. or, as the case may be, fifty per cent. of the tax due on the returned income.

*Explanation.*—In this section, "tax due on the returned income" means the tax chargeable on the total income declared in the return of income furnished by the assessee for the assessment year commencing on the 1st day of April immediately following the financial year in which the advance tax is paid, as reduced by the amount of tax deductible at source in accordance with the provisions of Chapter XVIIB on any income which is subject to such deduction and which is taken into account in computing such total income.

(2) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.'.

Amendment of section 240.

95. To section 240 of the Income-tax Act, the following proviso shall be added, namely:—

"Provided that where, by the order aforesaid,—

(*a*) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(*b*) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.".

Amendment of section 243.

96. In section 243 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The provisions of this section shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989 or any subsequent assessment years.".

Amendment of section 244.

97. In section 244 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The provisions of this section shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989 or any subsequent assessment years.".

**98.** After section 244 of the Income-tax Act, the following section shall be inserted, namely:— Insertion of new section 244A.

"244A. (*1*) Where, in pursuance of any order passed under this Act, refund of any amount becomes due to the assessee, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely:— Interest on refunds.

(*a*) where the refund is out of any tax paid by way of advance tax or treated as paid under section 199, during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of one and one-half per cent. for every month or part of a month comprised in the period from the 1st day of April of the assessment year to the date on which the refund is granted:

Provided that no interest shall be payable if the amount of refund is less than ten per cent. of the tax as determined on regular assessment;

(*b*) in any other case, such interest shall be calculated at the rate of one and one-half per cent. for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

*Explanation.*—For the purposes of this clause, "date of payment of tax or penalty" means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 156 is paid in excess of such demand.

(*2*) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee, whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is payable, and where any question arises as to the period to be excluded, it shall be decided by the Chief Commissioner or Commissioner whose decision thereon shall be final.

(*3*) Where, as a result of an order under section 147, or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under sub-section (*1*) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.

(4) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years.".

Amendment of sub-heading and substitution of new sections for section 246.

99. In Chapter XX of the Income-tax Act, for the sub-heading "A.—Appeals to the Appellate Assistant Commissioner and Commissioner (Appeals)" and section 246, the following sub-heading and sections shall be substituted, namely:—

*'A.—Appeals or applications to the Deputy Commissioner (Appeals) and Commissioner (Appeals).*

Appealable orders.

246. (1) Subject to the provisions of sub-section (2), any assessee aggrieved by any of the following orders of an Assessing Officer (other than the Deputy Commissioner) may appeal to the Deputy Commissioner (Appeals) against such order—

(a) an order against the assessee, where the assessee denies his liability to be assessed under this Act or any order of assessment under sub-section (3) of section 143 or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

(b) an order of assessment, re-assessment or re-computation under section 147 or section 150;

(c) an order under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections;

(d) an order made under section 163 treating the assessee as the agent of a non-resident;

(e) an order under sub-section (2) or sub-section (3) of section 170;

(f) an order under section 171;

(g) any order under clause (b) of sub-section (1) or under sub-section (2) or sub-section (3) or sub-section (5) of section 185 in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year;

(h) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186 in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year;

(i) an order under section 201;

(*j*) an order under section 216 in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year;

(*k*) an order under section 237;

(*l*) an order imposing a penalty under—

(*i*) section 221, or

(*ii*) section 271, section 271A, section 271B, section 271C, section 271D, section 271E or section 272A;

(*iii*) sub-section (*1*) of section 271, section 272, section 272B or section 273, as they stood immediately before the 1st day of April, 1989, in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment years.

(*2*) Notwithstanding anything contained in sub-section (*1*), any assessee aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against such order—

(*a*) an order specified in sub-section (*1*) where such order is made by the Deputy Commissioner in exercise of the powers or functions conferred on or assigned to him under section 120 or section 124;

(*b*) an order specified in clauses (*a*) to (*e*) (both inclusive) and clauses (*i*) to (*l*) (both inclusive) of sub-section (*1*) made against the assessee, being a company;

(*c*) an order of assessment made after the 30th day of September, 1984 on the basis of the directions issued by the Deputy Commissioner under section 144A;

(*d*) an order made by the Deputy Commissioner under section 154;

(*e*) an order imposing a penalty under section 271B;

(*f*) an order made by a Deputy Commissioner or a Deputy Director imposing a penalty under section 272A;

(*g*) an order imposing a penalty under clause (*c*) of sub-section (*1*) of section 271, as it stood immediately before the 1st day of April, 1989, in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment years, where such penalty has been imposed with the previous approval of the Deputy Commissioner under the proviso to clause (*iii*) of sub-section (*1*) of that section;

(*h*) an order made by an Assessing Officer (other than Deputy Commissioner) under the provisions of this Act in the case of such person or classes of persons as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

(*3*) Notwithstanding anything contained in sub-section (*1*), the Board or the Director General, or Chief Commissioner or Commis-

sioner if so authorised by the Board, may, by order in writing, transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals) if the Board or, as the case may be, the Director General, or Chief Commissioner or Commissioner (at the request of the appellant or otherwise) is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was before it was so transferred:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be re-opened or that he be reheard.

*Explanation.*—For the purposes of this section,—

(*a*) "appointed day" means the 10th day of July, 1978, being the day appointed under section 39 of the Finance (No. 2) Act, 1977; 29 of 1977.

(*b*) "status" means the category under which the assessee is assessed as "individual", "Hindu undivided family" and so on.

Application by the assessee in certain cases.

246A. (*1*) Where, before furnishing a return of income under section 139 or, as the case may be, sub-section (*1*) of section 142 for any assessment year, any question arises as to whether,—

(*a*) any income is includible or not in computing the total income (hereafter in this section referred to as the disputed income), or

(*b*) any deduction, allowance or other relief is admissible or not in computing the total income (hereafter in this section referred to as the disputed deduction),

the assessee shall, after furnishing such return, make an application under sub-section (*2*):

Provided that the assessee,—

(*i*) shall include in such return the disputed income and shall not claim the disputed deduction; and

(*ii*) shall also pay thirty per cent. of the tax due on the disputed income and in respect of the amount of disputed deduction.

(*2*) The application under sub-section (*1*) may be made within thirty days of furnishing the aforesaid return to the Deputy Commissioner (Appeals) or, as the case may be, to the Commissioner (Appeals).

(*3*) For the purposes of disposing of an application under sub-section (*1*), the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may—

(*a*) conduct such inquiry, or call for such books of accounts, other documents or information which he deems necessary; or

(b) direct the Assessing Officer concerned to conduct such inquiry and furnish the report thereon,

and thereafter decide the question raised in the application and pass such orders thereon as he thinks fit.

(4) The provision relating to filing of appeals under this Act shall, so far as may be, apply to the making of an application under this section as if such application were an appeal.'.

Omission of section 247.

**100.** Section 247 of the Income-tax Act shall be omitted.

Substitution of new section for section 267.

**101.** For section 267 of the Income-tax Act, the following section shall be substituted, namely:—

Amendment of assessment on appeal.

"267. Where as the result of an appeal under section 246 or section 253, any change is made in the assessment of a body of individuals or an association of persons or a new assessment of a body of individuals or an association of persons is ordered to be made, the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal, as the case may be, shall pass an order authorising the Assessing Officer either to amend the assessment made on any member of the body or association or make a fresh assessment on any member of the body or association.".

Amendment of section 268.

**102.** In section 268 of the Income-tax Act, the words "or an application" shall be omitted.

Amendment of section 269SS.

**103.** In section 269SS of the Income-tax Act,—

(*a*) for the words "ten thousand rupees", the words "twenty thousand rupees" shall be substituted;

(*b*) after the proviso and before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided further that the provisions of this section shall not apply to any loan or deposit where the person from whom the loan or deposit is taken or accepted and the person by whom the loan or deposit is taken or accepted are both having agricultural income and neither of them has any income chargeable to tax under this Act.".

Amendment of section 269 T.

**104.** In section 269T of the Income-tax Act,—

(a) in sub-section (2),—

(*i*) after the words "no firm", the words "or other person" shall be inserted;

(*ii*) for the words "ten thousand rupees", the words "twenty thousand rupees" shall be substituted;

(*b*) in the *Explanation*, for clause (*ii*), the following clause shall be substituted, namely:—

'(*ii*) "deposit" means any deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes deposit of any nature.'.

Omission of section 270.

**105.** Section 270 of the Income-tax Act shall be omitted.

Substitution of new section for section 271.

**106.** For section 271 of the Income-tax Act, the following section shall be substituted, namely:—

Failure to comply with notices.

"271. If the Assessing Officer, in the course of any proceedings under this Act, is satisfied that any person has failed to comply with a notice under sub-section (*1*) of section 142 or sub-section (*2*) of section 143 or with a direction issued under sub-section (*2A*) of section 142, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure.".

Amendment of section 271A.

**107.** In section 271A of the Income-tax Act, for the words "a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of tax, if any, which would have been avoided if the income returned by such person had been accepted as the correct income", the words "a sum which shall not be less than two thousand rupees but which may extend to one hundred thousand rupees" shall be substituted.

Insertion of new sections 271C, 271D and 271E.

**108.** After section 271B of the Income-tax Act, the following sections shall be inserted, namely:—

Penalty for failure to deduct tax at source.

"271C. If any person fails to deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B, he shall be liable to pay, by way of penalty, a sum equal to the amount of the tax which he failed to deduct as aforesaid.

Penalty for failure to comply with the provisions of section 269SS

271D. If a person takes or accepts any loan or deposit in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit so taken or accepted.

271E. If a person repays any deposit referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the deposit so repaid.". Penalty for failure to comply with the provisions of section 269T.

**109.** Section 272 of the Income-tax Act shall be omitted. Omission of section 272.

**110.** For section 272A of the Income-tax Act, the following section shall be substituted, namely:— Substitution of new section for section 272A.

'272A. (*1*) If any person,— Penalty for failure to answer questions, sign statements, furnish information returns or statements, allow inspections, etc.

(*a*) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by an income-tax authority in the exercise of its powers under this Act; or

(*b*) refuses to sign any statement made by him in the course of any proceedings under this Act, which an income-tax authority may legally require him to sign; or

(*c*) to whom a summons is issued under sub-section (*1*) of section 131 either to attend to give evidence or produce books of account or other documents at a certain place and time omits to attend or produce books of account or documents at the place or time; or

(*d*) fails to comply with the provisions of section 139A,

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure.

(*2*) If any person fails—

(*a*) to comply with a notice issued under sub-section (*6*) of section 94; or

(*b*) to give the notice of discontinuance of his business or profession as required by sub-section (*3*) of section 176; or

(*c*) to furnish in due time any of the returns, statements or particulars mentioned in section 133 or section 206 or section 206A or section 206B or section 285B; or

(*d*) to allow inspection of any register referred to in section 134 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or

(*e*) to furnish the return of income which he is required to furnish under sub-section (*4A*) of section 139 or to furnish it within the time allowed and in the manner required under that sub-section; or

(*f*) to deliver or cause to be delivered in due time a copy of the declaration mentioned in section 197A; or

(*g*) to furnish a certificate as required by section 203; or

(*h*) to deduct and pay tax as required by sub-section (2) of section 226;

he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees, but which may extend to two hundred rupees, for every day during which the failure continues.

(*3*) Any penalty imposable under sub-section (*1*) or sub-section (*2*) shall be imposed—

(*a*) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before an income-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such income-tax authority;

(*b*) in a case falling under clause (*f*) of sub-section (2), by the Chief Commissioner or Commissioner; and

(*c*) in any other case, by the Deputy Director or the Deputy Commissioner.

(*4*) No order under this section shall be passed by any income-tax authority referred to in sub-section (*3*) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such authority.

*Explanation.*—In this section, "income-tax authority" includes a Director General, Director, Deputy Director and an Assistant Director while exercising the powers vested in a court under the Code of Civil Procedure, 1908 when trying a suit in respect of the matters specified in sub-section (*1*) of section 131.'. 5 of 1908

Omission of section 272B.

111. Section 272B of the Income-tax Act shall be omitted.

Amendment of section 273.

112. In section 273 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(*3*) The provisions of this section shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in

this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.".

Amendment of section 273A.

**113.** In section 273A of the Income-tax Act, after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) The provisions of this section shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.".

Amendment of section 273B.

**114.** In section 273B of the Income-tax Act, for the words, figures, brackets and letters "section 270, clause (*a*) or clause (*b*) of sub-section (*1*) of section 271, section 271A, section 271B, sub-section (*2*) of section 272A, sub-section (*1*) of section 272AA, sub-section (*1*) of section 272B", the words, figures, letters and brackets "section 271, section 271A, section 271B, section 271C, section 271D, section 271E, clause (*c*) or clause (*d*) of sub-section (*1*) or sub-section (*2*) of section 272A, sub-section (*1*) of section 272AA" shall be substituted.

Amendment of section 274.

**115.** In section 274 of the Income-tax Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*2*) No order imposing a penalty under this Chapter shall be made—

(*a*) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(*b*) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.";

(*b*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) An income-tax authority on making an order under this Chapter imposing a penalty, unless he is himself the Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.".

Amendment of section 275.

**116.** In section 275 of the Income-tax Act, for clauses (*a*) and (*b*) excluding the *Explanation*, the following clauses shall be substituted, namely:—

"(*a*) in a case where the relevant assessment or other order is the subject-matter of an appeal to the Deputy Commissioner (Appeals) or the Commissioner (Appeals) under section 246 or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action

for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner whichever period expires later;

(b) in a case where the relevant assessment or other order is the subject-matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;

(c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.".

Insertion of new section 276.

**117.** After section 275A of the Income-tax Act, the following section shall be inserted, namely:—

Removal, concealment, transfer or delivery of property to thwart tax recovery.

"276. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken in execution of a certificate under the provisions of the Second Schedule shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.".

Substitution of new section for section 276B.

**118.** For section 276B of the Income-tax Act, the following section shall be substituted, namely:—

Failure to pay the tax deducted at source.

"276B. If a person fails to pay to the credit of the Central Government, the tax deducted at source by him as required by or under the provisions of Chapter XVII-B, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.".

Omission of sections 276DD and 276E.

**119.** Sections 276DD and 276E of the Income-tax Act shall be omitted.

Amendment of section 278AA.

**120.** In section 278AA of the Income-tax Act, for the words, figures and letters "section 276B, section 276DD or section 276E,", the words, figures and letter "or section 276B," shall be substituted.

Insertion of new section 293B.

**121.** After section 293A of the Income-tax Act, the following section shall be inserted, namely:—

Power of Central Government or Board to condone delays in obtaining approval.

"293B. Where, under any provision of this Act the approval of the Central Government or the Board is required to be obtained before a specified date, it shall be open to the Central Government or, as the case may be, the Board to condone, for sufficient cause, any delay in obtaining such approval.".

Substitution of new section for section 296.

**122.** For section 296 of the Income-tax Act, the following section shall be substituted, namely:—

Rules to be laid before Parliament.

"296. The Central Government shall cause every rule made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Amendment of section 298.

**123.** In section 298 of the Income-tax Act, after sub-section (2), the following sub-sections shall be added with effect from the 1st day of April, 1988, namely:—

"(3) If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

(4) Every order made under sub-section (3) shall be laid before each House of Parliament.".

**124.** In the Second Schedule to the Income-tax Act,—

Amendment of the Second Schedule.

(1) for the words and figures "*See* section 222" occurring under the heading, the words and figures "*See* sections 222 and 276" shall be substituted;

(2) in rule 1, for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) "certificate", except in rules 7, 44, 65 and sub-rule (2) of rule 66, means the certificate drawn up by the Tax Recovery

Officer under section 222 in respect of any assessee referred to in that section;';

(3) in rule 2, for the words "When a certificate has been received by the Tax Recovery Officer from the Income-tax Officer", the words "When a certificate has been drawn up by the Tax Recovery Officer" shall be substituted;

(4) for rule 8, the following rule shall be substituted, namely:—

Disposal of proceeds of execution.

"8. (1) Whenever assets are realised by sale or otherwise in execution of a certificate, the proceeds shall be disposed of in the following manner, namely:—

(a) they shall first be adjusted towards the amount due under the certificate in execution of which the assets were realised and the costs incurred in the course of such execution;

(b) if there remains a balance after the adjustment referred to in clause (a), the same shall be utilised for satisfaction of any other amount recoverable from the assessee under this Act which may be due on the date on which the assets were realised; and

(c) the balance, if any, remaining after the adjustments under clauses (a) and (b) shall be paid to the defaulter.

(2) If the defaulter disputes any adjustment under clause (b) of sub-rule (1), the Tax Recovery Officer shall determine the dispute.";

(5) in rule 9,—

(i) for the words "Income-tax Officer", the words "Tax Recovery Officer" shall be substituted;

(ii) the words "duly filed under this Act" shall be omitted;

(6) in rule 14, for the words "Income-tax Officer", the words "Tax Recovery Officer" shall be substituted;

(7) for rule 19A, the following rule shall be substituted, namely:—

Entrustment of certain functions by Tax Recovery Officer.

"19A. A Tax Recovery Officer may, with the previous approval of the Deputy Commissioner, entrust any of his functions as the Tax Recovery Officer to any other officer lower than him in rank (not being lower in rank than an Inspector of Income-tax) and such officer shall, in relation to the functions so entrusted to him, be deemed to be a Tax Recovery Officer.";

(8) in rule 25, in sub-rule (1), for the words "and the Income-tax Officer shall bear such sum as the Tax Recovery Officer shall require in order to defray the cost of such arrangements", the words "and he shall have power to defray the cost of such arrangements" shall be substituted;

(9) in rule 27, for the words "Income-tax Officer" wherever they occur, the words "Tax Recovery Officer" shall be substituted;

(10) in rule 31, for the words "Income-tax Officer" occurring in the proviso, the words "Tax Recovery Officer" shall be substituted;

(*11*) in rule 47, for the words "direct that such coins or notes, or a part thereof sufficient to satisfy the certificate, be paid over to the Income-tax Officer", the words and figure "direct that such coins or notes shall be credited to the Central Government and the amount so credited shall be dealt with in the manner specified in rule 8" shall be substituted;

(*12*) in rule 59, after sub-rule (2), the following sub-rule shall be inserted, namely:—

"(*3*) Where the Income-tax Officer referred to in sub-rule (*1*) is declared to be the purchaser of the property at any subsequent sale, nothing contained in rule 57 shall apply to the case and the amount of the purchase price shall be adjusted towards the amount specified in the certificate.";

(*13*) in rule 60, in sub-rule (*1*), in clause (*a*), the words "for payment to the Income-tax Officer" shall be omitted;

(*14*) in rule 61, for the words "Income-tax Officer", the words "such Income-tax Officer as may be authorised by the Chief Commissioner or Commissioner in this behalf" shall be substituted;

(*15*) in rule 73, in sub-rule (1), in clauses (*a*) and (*b*), for the words "the receipt of the certificate in the office of the Tax Recovery Officer", the words "the drawing up of the certificate by the Tax Recovery Officer" shall be substituted;

(*16*) in rule 74, for the words "the Tax Recovery Officer shall proceed to hear the Income-tax Officer and take all such evidence as may be produced by him in support of execution by arrest, and shall then give the defaulter", the words "the Tax Recovery Officer shall give the defaulter" shall be substituted;

(*17*) in rule 77, in sub-rule (*1*),—

(*a*) for clause (*ii*) of the proviso, the following clause shall be substituted, namely:—

"(*ii*) on the request of the Tax Recovery Officer on any ground other than the grounds mentioned in rules 78 and 79.";

(*b*) the second proviso shall be omitted;

(*18*) in rules 82, 83 and 87, for the words "Tax Recovery Commissioner", the words "Chief Commissioner or Commissioner" shall be substituted;

(*19*) in rule 85, for the words "If at any time after the issue of the certificate by the Income-tax Officer to the Tax Recovery Officer", the words "If at any time after the certificate is drawn up by the Tax Recovery Officer" shall be substituted;

(*20*) in rule 86,—

(*a*) for sub-rule (*1*), the following sub-rule shall be substituted, namely:—

"(*1*) An appeal from any original order passed by the Tax Recovery Officer under this Schedule, not being an

order which is conclusive, shall lie to the Chief Commissioner or Commissioner.";

(*b*) for sub-rule (*4*), the following sub-rule shall be substituted, namely:—

"(*4*) Notwithstanding anything contained in sub-rule (*1*), where a Chief Commissioner or Commissioner is authorised to exercise powers as such in respect of any area, then, all appeals against the orders passed before the date of such authorisation by any Tax Recovery Officer authorised to exercise powers as such in respect of that area, or an area which is included in that area, shall lie to such Chief Commissioner or Commissioner.";

(*21*) rule 89 shall be omitted;

(*22*) in rule 90, in sub-rule (*1*), for the words "Income-tax Officer", the words "Tax Recovery Officer" shall be substituted;

(*23*) in rule 92, for the words "Tax Recovery Commissioners", in two places where they occur, the words "Chief Commissioners, Commissioners" shall be substituted;

(*24*) after rule 93, the following rule shall be inserted, namely:—

Continuance of certain pending proceedings and power to remove difficulties.

"94. All proceedings for the recovery of tax pending immediately before the coming into force of the amendments to this Schedule by the Direct Tax Laws (Amendment) Act, 1987 shall be continued under this Schedule as amended by that Act from the stage they had reached, and, for this purpose, every certificate, issued by the Income-tax Officer under section 222 before such amendment shall be deemed to be a certificate drawn up by the Tax Recovery Officer under that section after such amendment, and, if any difficulty arises in continuing the said proceedings, the Board may issue (whether by way of modification, not affecting the substance, of any rule in this Schedule or otherwise) general or special orders which appear to it to be necessary or expedient for the purpose of removing the difficulty.".

Insertion of Tenth Schedule.

**125.** In the Income-tax Act, after the Ninth Schedule, the following Schedule shall be inserted, namely:—

## 'THE TENTH SCHEDULE

[*See* section 3(5)]

MODIFICATIONS SUBJECT TO WHICH THE PROVISIONS OF THIS ACT SHALL APPLY IN CASES WHERE THE PREVIOUS YEAR IN RELATION TO THE ASSESSMENT YEAR COMMENCING ON THE 1ST APRIL, 1989, REFERRED TO IN SECTION 3(*2*), EXCEEDS TWELVE MONTHS

Definition.

1. In this Schedule, "transitional previous year" means the period reckoned as the previous year for the assessment year commencing on the 1st day of April, 1989, in the manner specified in

sub-section (2) of section 3 and, in a case where the proviso to that sub-section applies, the longer or, as the case may be, the longest of the periods reckoned in the manner laid down in the said proviso.

Special provisions in a case where the transitional previous year is longer than twelve months.

2. In a case where the transitional previous year is longer than twelve months, the provisions of this Act and the Finance Act of the relevant year shall apply subject to the modifications specified in rules 3, 4, 5 and 6 of this Schedule.

Modifications pertaining to monetary limits, etc.

3. The provisions of this Act specified in column (1) of the Table below shall be subject to the modification that the reference therein to the amount or amounts specified in the corresponding entry in column (2) of the said Table, shall be construed as a reference to the said amount or amounts as increased by multiplying each such amount by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve:

Provided that for the purposes of this rule and rules 5 and 6, where the transitional previous year includes a part of a month, then, if such part is fifteen days or more, it shall be increased to one complete month and if such part is less than fifteen days, it shall be ignored.

TABLE

| Provision of the Act (1) | Amount (2) |
|---|---|
| | Rs. |
| Section 10(3) | 5,000 |
| Section 16 | 10,000 |
| Section 24(1)(ii) | 3,600 |
| Section 37(2A) | 10,000 |
| Section 44AA(2)(i) and (iii) | 25,000 and 2,50,000 |
| Section 44AB | 40,00,000 and 10,00,000 |
| Section 48(2) | 10,000 |
| Section 80C(1) | 6,000, 9,000 and 12,000 |
| Section 80C(2)(d) | 10,000 |
| Section 80C(4) | 60,000 and 40,000 |
| Section 80F(2)(b) | 50,000 |
| Section 80L(1) | 7,000 (occurring in two places) |
| Section 80L(1)—1st proviso | 3,000 |
| Section 80L(1)—2nd proviso | 2,000 |
| Section 80U | 15,000 |
| Section 139A | 50,000 |

Modification in section 6.

4. Where the transitional previous year comprises a period of eighteen months or more, then, sub-section (*1*) of section 6 shall be subject to the modification that references therein to the periods of one hundred and eighty-two days and ninety days shall be construed as references, respectively, to the periods of two hundred and seventy-three days and one hundred and thirty-five days.

Modification in respect of depreciation allowance.

5. Where the assessee's income under the head "Profits and gains of business or profession" for a period of thirteen months or more is included in his total income for the transitional previous year, the allowance under clause (*ii*) of sub-section (*1*) of section 32 in respect of depreciation of buildings, machinery, plant or furniture calculated in the manner stated therein, shall be increased by multiplying it by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve.

Modification in respect of rate of tax.

6. The tax chargeable on the total income of the transitional previous year shall be calculated at the average rate of tax on the amount obtained by multiplying such total income by a fraction of which the numerator is twelve and the denominator is the number of months in the transitional previous year, as if the resultant amount were the total income.

Power of Board to grant relief in case of hardship.

7. The Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship, by general or special order, grant appropriate relief in any case or class of cases where the transitional previous year is longer than twelve months.'.

Consequential amendments.

**126.** The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act, save as otherwise provided, with effect from the 1st day of April, 1989, namely:—

(*1*) in section 2, clause (*3*) shall be omitted with effect from the 1st day of April, 1988;

(*2*) in section 10, in clause (*15*), in sub-clause (*iiia*), in the *Explanation*, for the words, brackets and figures "the *Explanation* to clause (*iii*) of sub-section (*5*) of section 11", the words, brackets and figures "clause (*ii*) of the *Explanation* to clause (*viia*) of sub-section (*1*) of section 36" shall be substituted;

(3) in section 10A, after sub-section (7) and before the *Explanation*, the following sub-section shall be inserted, namely:—

"(*8*) References in this section to any other provision of this Act which has been amended or omitted by the Direct Tax Laws (Amendment) Act, 1987 shall, notwithstanding such amendment or omission, be construed, for the purposes of this section, as if such amendment or omission had not been made.";

(*4*) in section 29, for the words, figures and letter "sections 30 to 43A", the words, figures and letter "sections 30 to 43B" shall be substituted;

(5) in section 32, in sub-section (2), the brackets and words "(or, if the assessee is a registered firm or an unregistered firm assessed as a registered firm, in the assessment of its partners)" shall be omitted;

(6) in section 40A, in sub-section (2), in clause (a), the proviso shall be omitted;

(7) in section 41, after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) References in sub-section (3) to any other provision of this Act which has been amended or omitted by the Direct Tax Laws (Amendment) Act, 1987 shall, notwithstanding such amendment or omission, be construed, for the purposes of that sub-section, as if such amendment or omission had not been made.";

(8) in section 43A, in sub-section (1), for the words, brackets, figures and letter "in clause (iv) of sub-section (1) of section 35 or in section 35A", the words, figures and letter "in section 35A" shall be substituted;

(9) in section 44, for the words, figures and letter "sections 28 to 43A", the words, figures and letter "sections 28 to 43B" shall be substituted;

(10) in section 80, for the words, brackets and figures "within the time allowed under sub-section (1) of section 139 or within such further time as may be allowed by the Income-tax Officer,", the words, brackets and figures "in accordance with the provisions of sub-section (3) of section 139" shall be substituted;

(11) in section 80G,—

(a) in sub-section (5), in clause (v), the words, brackets and figures "or is an institution approved by the Central Government for the purposes of clause (23) of section 10," shall be omitted;

(b) *Explanation 4* shall be omitted;

(12) in section 80HHA, in the *Explanation*, for clause (a), the following clause shall be substituted, namely:—

'(a) "rural area" means any area other than—

(i) an area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year; or

(*ii*) an area within such distance, not being more than fifteen kilometres from the local limits of any municipality or cantonment board referred to in sub-clause (*i*), as the Central Government may, having regard to the stage of development of such area (including the extent of, and scope for, urbanisation of such area) and other relevant considerations specify in this behalf by notification in the Official Gazette;';

(*13*) in section 132, in sub-section (*1*), in the proviso and in sub-section (*1A*), the words and figures "notwithstanding anything contained in section 121" shall be omitted with effect from the 1st day of April, 1988;

(*14*) in section 132B, in sub-section (*1*), in clause (*iii*), for the words "the Income-tax Officer", wherever they occur, the words "the Assessing Officer or, as the case may be, Tax Recovery Officer" shall be substituted;

(*15*) in section 133A, in sub-section (*6*), for the words, brackets and figures "sub-sections (*1*) and (*2*) of section 131", the words, brackets and figures "sub-section (*1*) of section 131" shall be substituted;

(*16*) in section 139, in sub-section (*8*), in clause (*b*), after the word and figures "section 264", the words, brackets, figures and letter "or an order of the Settlement Commission under sub-section (*4*) of section 245D" shall be inserted;

(*17*) in section 144A,—

(*a*) in sub-section (*1*), the brackets and figure "(*1*)" shall be omitted;

(*b*) sub-section (*2*) shall be omitted;

(*18*) in section 174,—

(*a*) in sub-section (*4*),—

(*i*) for the words, brackets and figures "as a return under sub-section (*2*) of section 139", the words, brackets and figures "as a return under clause (*i*) of sub-section (*1*) of section 142" shall be substituted;

(*ii*) for the words, brackets and figures "a notice issued under sub-section (*2*) of section 139", the words, brackets and figures "a notice issued under clause (*i*) of sub-section (*1*) of section 142" shall be substituted;

(*b*) in sub-section (*6*), for the words, brackets and figures "sub-section (*2*) of section 139 or sub-section (*1*) of", wherever they occur, the words, brackets and figures "clause (*i*) of sub-section (*1*) of section 142 or" shall be substituted;

(*19*) in section 176,—

(*a*) in sub-section (*5*), for the words, brackets and figures "under sub-section (*2*) of section 139", wherever they occur, the words, brackets and figures "under clause (*i*) of sub-section (*1*) of section 142" shall be substituted;

(*b*) in sub-section (*7*), for the words, brackets and figures "sub-section (*2*) of section 139 or sub-section (*1*) of", wherever they occur, the words, brackets and figures "clause (*i*) of sub-section (*1*) of section 142 or" shall be substituted;

(*20*) in section 199, the brackets, words, figures and letter "(including a provisional assessment under section 141A), if any," shall be omitted;

(*21*) in section 219, the proviso shall be omitted;

(*22*) section 234 shall be omitted;

(*23*) in section 253, in sub-section (*1*), in clause (*a*), after the word and figures "section 154,", the word, figures and letter "section 246A," shall be inserted;

(*24*) in section 276CC, for the words, brackets and figures "sub-section (*2*) of section 139", the words, brackets and figures "clause (*i*) of sub-section (*1*) of section 142" shall be substituted;

(*25*) in section 279, in sub-section (*3*), for the words, brackets and letters "clauses (*a*), (*b*), (*c*), (*d*) and (*e*)", the words, brackets and letters "clauses (*a*) to (*g*)" shall be substituted with effect from the 1st day of April, 1988;

(*26*) in section 288, in sub-section (*4*), in clause (*b*), the words, brackets and figures "clauses (*i*) and (*ii*) of sub-section (*1*) of" shall be omitted;

(*27*) in the First Schedule, in rule 5, in clause (*a*), for the words, figures and letter "sections 30 to 43A", the words, figures and letter "sections 30 to 43B" shall be substituted;

(*28*) in the Third Schedule, for the words "Income-tax Officer", the words "Assessing Officer or Tax Recovery Officer" shall be substituted.

## CHAPTER III

### AMENDMENTS TO THE WEALTH-TAX ACT, 1957

27 of 1957

**127.** In the Wealth-tax Act, 1957 (hereafter in this Chapter referred to as the Wealth-tax Act) save as otherwise expressly provided in this Act, and unless the context otherwise requires, reference to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of April, 1988 by references, to the authority or authorities specified in the corresponding entry in column (2) of the said

**Substitution of new authorities.**

Table, and such consequential changes as the rules of grammar may require, shall also be made:

TABLE

| (1) | (2) |
|---|---|
| Director of Inspection . . . . | Director General or Director |
| Deputy Director of Inspection . . . | Deputy Director |
| Assistant Director of Inspection . . . | Assistant Director |
| Commissioner or Commissioner of Wealth-tax | Chief Commissioner or Commissioner |
| Inspecting Assistant Commissioner or Inspecting Assistant Commissioner of Wealth-tax | Deputy Commissioner |
| Appellate Assistant Commissioner . . | Deputy Commissioner (Appeals) |
| Wealth-tax Officer . . . . . | Assessing Officer |
| Inspector of Wealth-tax . . . . | Inspector of Income-tax : |

Provided that nothing contained in this section shall apply to the references to "Commissioner" occurring in sections 22D, 24 and 25.

Amendment of section 2.

128. In section 2 of the Wealth-tax Act,—

(*i*) clause (*a*) shall be omitted;

(*ii*) clause (*ca*) shall be re-lettered as clause (*cb*) and before that clause as so re-lettered, the following clause shall be inserted, namely:—

'(*ca*) "Assessing Officer" means the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (*1*) or sub-section (*2*) of section 120 or any other provision of the Income-tax Act which apply for the purposes of Wealth-tax under section 8 of this Act, and also the Deputy Commissioner who is directed under clause (*b*) of sub-section (*4*) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act;';

(*iii*) clauses (*g*), (*gg*), (*hb*), (*k*), (*l*) and (*la*) shall be omitted;

(*iv*) for clause (*h*), the following clause shall be substituted, namely:—

'(*h*) "company" shall have the meaning assigned to it in clause (*17*) of section 2 of the Income-tax Act;';

(*v*) after clause (*lb*), the following clause shall be inserted, namely:—

'(*lc*) "maximum marginal rate" means the rate of wealth-tax applicable in relation to the highest slab of wealth in the case of an individual as specified in Part I of Schedule I;';

(*vi*) in clause (*q*), clause (*i*) of the proviso shall be omitted;

(*vii*) for clause (*s*), the following clause shall be substituted, namely:—

'(*s*) the expressions "Chief Commissioner", "Director-General", "Commissioner", "Commissioner (Appeals)", "Director", "Deputy Commissioner", "Deputy Commissioner (Appeals)", "Assistant Commissioner", "Income-tax Officer", "Inspector of Income-tax" and "Tax Recovery Officer" shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.'.

Amendment of section 3.

**129.** In section 3 of the Wealth-tax Act, for the words "Subject to the other provisions contained in this Act", the words and brackets "Subject to the other provisions (including provisions for the levy of additional wealth-tax) contained in this Act" shall be substituted.

Amendment of section 5.

**130.** In section 5 of the Wealth-tax Act, with effect from the 1st day of April, 1988,—

(*i*) in sub-section (*1*), after clause (*xxiv*), the following clause shall be inserted, namely:—

"(*xxiva*) units of a Mutual Fund specified under clause (*23D*) of section 10 of the Income-tax Act;";

(*ii*) in sub-section (*1A*), after the brackets and figures "(*xxiv*)", the brackets, figures and letter "(*xxiva*)" shall be inserted.

Substitution of new sections for sections 8, 9, 10 and 11.

**131.** For sections 8, 9, 10 and 11 of the Wealth-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:—

Wealth-tax authorities and their jurisdiction.

"8. The income-tax authorities specified in section 116 of the Income-tax Act shall be the wealth-tax authorities for the purposes of this Act and every such authority shall exercise the powers and perform the functions of a wealth-tax authority under this Act in respect of any individual, Hindu undivided family or company, and for this purpose his jurisdiction under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning concurrent jurisdiction) or under any other provision of that Act.

*Explanation.*—For the purposes of this section, the wealth-tax authority having jurisdiction in relation to a person who is not an assessee within the meaning of the Income-tax Act shall be the wealth-tax authority having jurisdiction in respect of the area in which that person resides.

Control of wealth-tax authorities.

9. Section 118 of the Income-tax Act and any notification issued thereunder shall apply in relation to the control of wealth-tax authorities as they apply in relation to the control of the corresponding income-tax authorities, except to the extent to which the Board may, by notification in the Official Gazette, otherwise direct in respect of any wealth-tax authority.

Instructions to subordinate authorities.

10. (*1*) The Board may, from time to time, issue such orders, instructions and directions to other wealth-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(*a*) so as to require any wealth-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(*b*) so as to interfere with the discretion of the Deputy Commissioner (Appeals) or Commissioner (Appeals) in the exercise of his appellate functions.

(*2*) Without prejudice to the generality of the foregoing power,—

(*a*) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 16, 17, 18 and 35 or otherwise), general or special orders in respect of any class of cases, setting forth directions or instructions (not being prejudicial to assessees) as to the guidelines, principles or procedures to be followed by other wealth-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(*b*) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any wealth-tax authority, not being a Deputy Commissioner (Appeals) or Commissioner (Appeals), to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law.

Jurisdiction of Assessing Officers and power to transfer cases.

11. (*1*) The provisions of sections 124 and 127 of the Income-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Income-tax Act, subject to the modifications specified in sub-section (*2*).

(*2*) The modifications referred to in sub-section (*1*) shall be the following, namely:—

(*a*) in section 124 of the Income-tax Act,—

(*i*) in sub-section (*3*), references to the provisions of the Income-tax Act shall be construed as references to the corresponding provisions of the Wealth-tax Act;

(*ii*) sub-section (5) shall be omitted;

(*b*) in section 127 of the Income-tax Act, in the *Explanation* below sub-section (5), references to proceedings under the Income-tax Act shall be construed as including references to proceedings under the Wealth-tax Act.".

Omission of sections 8A, 8AA, 8B, 9A, 10A, 11A, 11AA, 11B, 12 and 13.

**132.** Sections 8A, 8AA, 8B, 9A, 10A, 11A, 11AA, 11B, 12 and 13 of the Wealth-tax Act shall be omitted with effect from the 1st day of April, 1988.

Amendment of section 14.

**133.** In section 14 of the Wealth-tax Act,—

(*a*) for sub-sections (*1*) and (*2*), the following sub-sections shall be substituted, namely:—

'(*1*) Every person, if his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date exceeded the maximum amount which is not chargeable to wealth-tax, shall, on or before the due date, furnish a return of his net wealth or the net wealth of such other person as on that valuation date in the prescribed form and verified in the prescribed manner setting forth particulars of such net wealth and such other particulars as may be prescribed.

*Explanation.*—In this sub-section, "due date" in relation to an assessee under this Act shall be the same date as that applicable to an assessee under the Income-tax Act under the *Explanation* to sub-section (*1*) of section 139 of the Income-tax Act.

(2) Notwithstanding anything contained in any other provision of this Act, a return of net wealth which shows the net wealth below the maximum amount which is not chargeable to tax shall be deemed never to have been furnished:

Provided that this sub-section shall not apply to a return furnished in response to a notice under section 17.';

(*b*) sub-section (*3*) shall be omitted.

Substitution of new section for section 15.

**134.** For section 15 of the Wealth-tax Act, the following section shall be substituted, namely:—

Return after due date and amendment of return.

"15. If any person has not furnished a return within the time allowed under sub-section (*1*) of section 14 or under a notice issued under clause (*i*) of sub-section (*4*) of section 16, or having furnished a return discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier:

Provided that—

(*a*) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year, it may be furnished at any time up to and inclusive of the 31st day of March, 1990 or before the completion of the assessment, whichever is earlier;

(*b*) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1988, it may be furnished at any time up to and inclusive of the 31st day of March, 1991 or before the completion of the assessment, whichever is earlier.".

Amendment of section 15A.

**135.** In section 15A of the Wealth-tax Act,—

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) in the case of an individual,—

(*i*) by the individual himself;

(*ii*) where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf;

(*iii*) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

(*iv*) where, for any other reason, it is not possible for the individual to sign the return, by any person duly authorised by him in this behalf:

Provided that in a case referred to in sub-clause (*ii*) or sub-clause (*iv*), the person signing the return holds a valid power of attorney from the individual to do so, which shall be attached to the return;";

(*ii*) to clause (*c*), the following provisos shall be added, namely:—

"Provided that where the company is not resident in India, the return may be signed and verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return:

Provided further that,—

(*a*) where the company is being wound up, whether under the orders of the court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be signed and verified by the liquidator referred to in sub-section (*1*) of section 178 of the Income-tax Act;

(*b*) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be signed and verified by the principal officer thereof.".

136. For section 15B of the Wealth-tax Act, the following section shall be substituted, namely:— Substitution of new section for section 15B.

"15B. (1) Where any tax is payable on the basis of any return furnished under section 14 or section 15 or in response to a notice under clause (*i*) of sub-section (4) of section 16 or under section 17, after taking into account the amount of tax, if any, already paid under any provision of this Act, the assessee shall be liable to pay such tax, together with interest payable under any provision of this Act for any delay in furnishing the return, before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest. Self-assessment.

*Explanation.*—Where the amount paid by the assessee under this sub-section falls short of the aggregate of the tax and interest as aforesaid, the amount so paid shall first be adjusted towards the interest payable as aforesaid and the balance, if any, shall be adjusted towards the tax payable.

(2) After the regular assessment under section 16 has been made, any amount paid under sub-section (*1*) shall be deemed to have been paid towards such regular assessment.

(3) If any assessee fails to pay the whole or any part of such tax or interest or both in accordance with the provisions of sub-section (*1*), he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid and all the provisions of this Act shall apply accordingly.".

137. Section 15C of the Wealth-tax Act shall be omitted. Omission of section 15C.

138. For section 16 of the Wealth-tax Act, the following section shall be substituted, namely:— Substitution of new section for section 16.

"16. (*1*) (*a*) Where a return has been made under section 14 or section 15 or in response to a notice under clause (*i*) of sub-section (*4*),— Assessment.

(*i*) if any tax or interest is found due on the basis of such return after adjustment of any amount paid by way of tax or interest, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice issued under section 30 and all the provisions of this Act shall apply accordingly; and

(*ii*) if any refund is due on the basis of such return, it shall be granted to the assessee:

Provided that in computing the tax or interest payable by, or refundable to, the assessee, the following adjustments shall be made in the net wealth declared in the return, namely:—

(*i*) any arithmetical errors in the return, accounts or documents accompanying it shall be rectified;

(*ii*) any exemption or deduction, which, on the basis of the information available in such return, accounts or documents, is *prima facie* admissible but which is not claimed or made in the return, shall be allowed;

(*iii*) any exemption or deduction claimed or made in the return, which, on the basis of the information available in such return, accounts or documents, is *prima facie* inadmissible, shall be disallowed;

(*b*) Where, as a result of an order made under section 17 or section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (*4*) of section 22D relating to any earlier assessment year and passed subsequent to the filing of the return referred to in clause (*a*), there is any variation in the exemption or deduction claimed or made in the return, and as a result of which,—

(*i*) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 30 and all the provisions of this Act shall apply accordingly, and

(*ii*) if any refund is due, it shall be granted to the assessee:

Provided that an intimation for any tax or interest due under this clause shall not be sent after the expiry of four years from the end of the financial year in which any such order was passed.

(*2*) In a case referred to in sub-section (*1*), if the Assessing Officer considers it necessary or expedient to ensure that the assessee has not understated the net wealth or has not under-paid the tax in any manner, he shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend at the office of the Assessing Officer or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of the financial year in which the return is furnished or the expiry of six months from the end of the month in which the return is furnished, whichever is later.

(*3*) On the day specified in the notice issued under sub-section (*2*) or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by order in writing, assess the net wealth of the assessee and determine the sum payable by him on the basis of such assessment.

(4) For the purposes of making an assessment under this Act, the Assessing Officer may serve, on any person who has made a return under section 14 or section 15 or in whose case the time allowed under sub-section (1) of section 14 for furnishing the return has expired, a notice requiring him, on a date to be specified therein,—

(i) where such person has not made a return before the end of the relevant assessment year to furnish a return of his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date, in the prescribed form and verified in the prescribed manner, setting forth the particulars of such net wealth and such other particulars as may be prescribed, or

(ii) to produce or cause to be produced such accounts, records or other documents as the Assessing Officer may require.

(5) If any person—

(a) fails to make the return required under sub-section (1) of section 14 and has not made a return or a revised return under section 15, or

(b) fails to comply with all the terms of a notice issued under sub-section (2) or sub-section (4),

the Assessing Officer, after taking into account, all relevant material which he has gathered, shall, after giving such person an opportunity of being heard, estimate the net wealth to the best of his judgment and determine the sum payable by the person on the basis of such assessment:

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the person to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (4) has been issued prior to the making of the assessment under this sub-section.".

**Amendment of section 17.**

**139.** In section 17 of the Wealth-tax Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) If the Assessing Officer, for reasons to be recorded by him in writing, is of the opinion that the net wealth chargeable to tax in respect of which any person is assessable under this Act has escaped assessment for any assessment year (whether by reason of under-assessment or assessment at too low a rate or otherwise), he may, subject to the other provisions of this section and section 17A, serve on such person a notice requiring

him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth the net wealth in respect of which such person is assessable as on the valuation date mentioned in the notice, along with such other particulars as may be required by the notice, and may proceed to assess or re-assess such net wealth and also any other net wealth chargeable to tax in respect of which such person is assessable, which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section for the assessment year concerned (hereafter in this section referred to as the relevant assessment year), and the provisions of this Act shall, so far as may be, apply as if the return were a return required to be furnished under section 14:

Provided that where an assessment under sub-section (*3*) of section 16 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any net wealth chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 14 or section 15 or in response to a notice issued under sub-section (*4*) of section 16 or this section or to disclose fully and truly all material facts necessary for his assessment for that assessment year.

*Explanation.*—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

(*1A*) No notice under sub-section (*1*) shall be issued for the relevant assessment year,—

(*a*) in a case where an assessment under sub-section (*3*) of section 16 or sub-section (*1*) of this section has been made for such assessment year,—

(*i*) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (*ii*) or sub-clause (*iii*);

(*ii*) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees five lakhs or more for that year;

(*iii*) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees ten lakhs or more for that year;

(b) in any other case,—

(i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees two lakhs and fifty thousand or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees five lakhs or more for that year.

*Explanation.*—For the purposes of sub-section (1) and sub-section (1A), the following shall also be deemed to be cases where net wealth chargeable to tax has escaped assessment, namely:—

(a) where no return of net wealth has been furnished by the assessee although his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date exceeded the maximum amount which is not chargeable to wealth-tax;

(b) where a return of net wealth has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the net wealth or has claimed excessive exemption or deduction in the return.

(1B) (a) In a case where an assessment under sub-section (3) of section 16 or sub-section (1) of this section has been made for the relevant assessment year, no notice shall be issued under sub-section (1) except by an Assessing Officer of the rank of Assistant Commissioner or Deputy Commissioner:

Provided that, after the expiry of four years from the end of the relevant assessment year, no such notice shall be issued unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer aforesaid, that it is a fit case for the issue of such notice.

(b) In a case other than a case falling under clause (a), no notice shall be issued under sub-section (1) by an Assessing Officer, who is below the rank of Deputy Commissioner, after the expiry of four years from the end of the relevant assessment year, unless the Deputy Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.";

(b) in sub-section (2), in the opening paragraph, the words "or by a court in any proceedings under any other law" shall be added at the end.

Amendment of section 17A.

**140.** In section 17A of the Wealth-tax Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) No order of assessment shall be made under section 16 at any time after the expiry of two years from the end of the assessment year in which the net wealth was first assessable:

Provided that where the net wealth was first assessable in the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment may be made on or before the 31st day of March, 1990.

(2) No order of assessment or reassessment shall be made under section 17 after the expiry of two years from the end of the financial year in which the notice under sub-section (1) of that section was served:

Provided that,—

(i) where the notice under clause (a) of sub-section (1) of section 17 was served during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990;

(ii) where the notice under clause (b) of sub-section (1) of section 17 relates to the assessment for the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990, or the expiry of two years from the end of the financial year in which such notice was served, whichever is later.

*Explanation.*—References to section 17 in the proviso shall be construed as references to that section as it stood before amendment by the Direct Tax Laws (Amendment) Act, 1987.";

(b) in sub-section (3),—

(i) for the words "four years", the words "two years" shall be substituted;

(ii) the following proviso shall be inserted at the end, namely:—

"Provided that where the order setting aside or cancelling an assessment was passed during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, the order of fresh assessment may be made on or before the 31st day of March, 1990.".

Insertion of new section 17B.

141. After section 17A of the Wealth-tax Act, the following section shall be inserted, namely:—

Interest for defaults in furnishing return of net wealth.

'17B. (*1*) Where the return of net wealth for any assessment year under sub-section (*1*) of section 14 or section 15, or in response to a notice under clause (*i*) of sub-section (*4*) of section 16, is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,—

(*a*) where the return is furnished after the due date, ending on the date of furnishing of the return, or

(*b*) where no return has been furnished, ending on the date of completion of the assessment under sub-section (*5*) of section 16,

on the amount of tax payable on the net wealth as determined on regular assessment.

*Explanation 1.*—In this section, "due date" means the date specified in sub-section (*1*) of section 14 as applicable in the case of the assessee.

*Explanation 2.*—In this sub-section and sub-section (*3*), "tax payable on the net wealth as determined on regular assessment" shall not include the additional wealth-tax, if any, payable under section 18D.

*Explanation 3.*—Where, in relation to an assessment year, an assessment is made for the first time under section 17, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(*2*) The interest payable under sub-section (*1*) shall be reduced by the interest, if any, paid under section 15B towards the interest chargeable under this section.

(*3*) Where the return of net wealth for any assessment year, required by a notice under sub-section (*1*) of section 17 issued after the completion of an assessment under sub-section (*3*) or sub-section (*5*) of section 16 or section 17, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

(*a*) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(*b*) where no return has been furnished, ending on the date of completion of the reassessment under section 17,

on the amount by which the tax on the net wealth determined on the basis of such reassessment exceeds the tax on the net wealth as determined on the basis of the earlier assessment aforesaid.

*Explanation.*—In this sub-section, "tax on the net wealth determined on the basis of the reassessment under section 17" shall not include the additional wealth-tax, if any, payable under section 18D.

(*4*) Where, as a result of an order under section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (*4*) of section 22D, the amount of tax on which interest was payable under this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and,—

(*i*) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 30 and the provisions of this Act shall apply accordingly, and

(*ii*) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(*5*) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.'.

**Substitution of new sections for sections 18 and 18A.**

**142.** For sections 18 and 18A of the Wealth-tax Act, the following sections shall be substituted, namely:—

**Penalty for failure to comply with notices.**

'18. (*1*) If the Assessing Officer, in the course of any proceedings under this Act, is satisfied that any person has failed to comply with the notice under sub-section (*2*) or sub-section (*4*) of section 16, the Assessing Officer may, by order in writing, direct that such person shall pay, by way of penalty, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure:

Provided that—

(*a*) no penalty shall be imposable under this section, if the person proves that there was reasonable cause for the failure referred to in this sub-section;

(*b*) no order imposing a penalty under this section shall be made—

(*i*) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(*ii*) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.

(*2*) No order shall be made under sub-section (*1*) unless the person concerned has been heard, or has been given a reasonable opportunity of being heard.

(3) No order imposing a penalty under sub-section (1) shall be passed after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

*Explanation.*—In computing the period of limitation for the purposes of this section,—

(*i*) any period during which the immunity granted under section 22H remained in force;

(*ii*) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39; and

(*iii*) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.

**Penalty for failure to answer questions, sign statements, furnish information, allow inspections, etc.**

18A. (1) If any person,—

(*a*) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by a wealth-tax authority in the exercise of his powers under this Act; or

(*b*) refuses to sign any statement made by him in the course of any proceedings under this Act, which a wealth-tax authority may legally require him to sign; or

(*c*) to whom a summons is issued under sub-section (1) of section 37 either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time,

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure:

Provided that no penalty shall be imposable under clause (*c*) if the person proves that there was reasonable cause for the said failure.

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 38, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues:

Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed—

(*a*) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course

of any proceeding before a wealth-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such wealth-tax authority;

(b) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any wealth-tax authority referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed has been heard, or has been given a reasonable opportunity of being heard in the matter, by such authority.

*Explanation.*—In this section, "wealth-tax authority" includes a Director General, Director, Deputy Director, Assistant Director and a Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in sub-section (1) of section 37.'. 5 of 1908.

Insertion of new Chapter IVB.

143. In the Wealth-tax Act, after section 18C, the following Chapter shall be inserted, namely:—

"CHAPTER IVB

CHARGE OF ADDITIONAL WEALTH-TAX IN CERTAIN CASES

Additional wealth-tax.

18D. (1) Where, in the case of any person, the net wealth determined in the regular assessment for any assessment year (hereafter in this section referred to as assessed net wealth) exceeds the net wealth declared in the return of net wealth furnished by such person for that assessment year (hereafter in this section referred to as returned net wealth) by any amount, the Assessing Officer shall make an order in writing that such person shall, apart from the sum determined as payable by him on the basis of the assessment under section 16, be liable to pay, by way of additional wealth-tax, in respect of the said assessment year, as sum calculated on such excess amount at the rate of three per cent.

(2) For the purposes of sub-section (1),—

(a) where such person has furnished two or more returns of net wealth for the same assessment year, the net wealth declared in the return furnished last before the service of a notice under sub-section (2) of section 16 on such person shall be treated as the returned net wealth;

(b) where such person fails to furnish the return of net wealth in respect of any assessment year and the assessment for that year is made under sub-section (5) of section 16, the returned net wealth shall be taken to be *nil;*

(c) where such person fails to furnish a return of net wealth for any assessment year under section 14 or section 15, but furnishes such return after he is served with a notice under section 17, the returned net wealth shall be taken to be *nil.*

(3) Where, as a result of an order under section 17 or section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D, the amount on which the

additional wealth-tax is payable under sub-section (*1*) has been increased or reduced, as the case may be, the additional wealth-tax shall be increased or reduced accordingly, and,—

(*i*) in a case where the additional wealth-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 30 and the provisions of this Act shall apply accordingly;

(*ii*) in a case where the additional wealth-tax is reduced, the excess amount paid, if any, shall be refunded.

(*4*) The Chief Commissioner or Commissioner may, in his discretion, whether on his own motion or otherwise, waive or reduce the amount of additional wealth-tax payable under sub-section (*1*) by any person, if he is satisfied that the whole or, as the case may be, any part of the excess amount referred to in that sub-section is attributable to any amount added or disallowed in computing the assessed net wealth, as a result of the rejection of any explanation (by way of interpretation of any provision of this Act or otherwise) offered by such person, if such explanation is *bona fide* and all the facts relating to the same and material to the computation of the assessed net wealth have been disclosed by him:

Provided that—

(*i*) where an appeal before the Deputy Commissioner (Appeals) or Commissioner (Appeals) or the Appellate Tribunal has also been filed by the assessee against the order of assessment, the petition for waiver or reduction of the amount of additional wealth-tax can be filed by the assessee only after the decision on such appeal;

(*ii*) the petition for waiver or reduction of the amount of additional wealth-tax shall be accompanied by a fee of one hundred rupees.

(*5*) Where in the course of a search under section 37A, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as assets) and the assessee claims that such assets represent or form part of his net wealth—

(*a*) on any valuation date falling before the date of the search, but the return in respect of the net wealth on such date has not been furnished before the date of the search or where such return has been furnished before the said date, such assets have not been declared in such return; or

(*b*) on any valuation date falling on or after the date of the search,

then, notwithstanding that such assets are declared by him in any return of net wealth furnished on or after the date of the search, the value of such assets shall not, for the purposes of liability to the additional, wealth-tax under sub-section (*1*), be treated as forming part of the returned net wealth, unless—

(*i*) such assets are recorded—

(*A*) in a case falling under clause (*a*), before the date of the search; and

(*B*) in a case falling under clause (*b*), on or before the date of the search,

in the books of account, if any, maintained by him or such assets are otherwise disclosed to the Chief Commissioner or Commissioner before the said date; or

(*ii*) the assessee, in the course of the search, makes a statement under sub-section (*4*) of section 37A that any money, bullion, jewellery or other valuable article or thing found in his possession or under his control forms part of his net wealth which has not been disclosed so far in his return of net wealth to be furnished before the expiry of the time specified in sub-section (*1*) of section 14, and also specifies in the statement the manner in which such net wealth has been acquired and pays the tax together with interest, if any, in respect of such net wealth.

(*6*) The additional wealth-tax payable under this section shall not be included in the amount of tax payable on the net wealth as determined on regular assessment, for the purposes of section 17B.".

Amendment of section 21A.

**144.** In section 21A of the Wealth-tax Act,—

(*a*) in clause (*i*), for the words, brackets and figures "any person referred to in sub-section (*3*) of section 13 of the Income-tax Act", the words "any interested person," shall be substituted;

(*b*) in clause (*ii*), for the words, brackets and figures "any person referred to in sub-section (*3*) of section 13 of the said Act, or", the words "any interested person," shall be substituted;

(*c*) clause (*iii*) shall be omitted;

(*d*) in the first proviso, for the words, brackets and figures "any person referred to in sub-section (*3*) of section 13 of the Income-tax Act", the words "any interested person" shall be substituted;

(*e*) in the second proviso,—

(*i*) for the words, brackets and figures "any person referred to in sub-section (*3*) of section 13 of the Income-tax Act has a substantial interest as provided in *Explanation 3* to that section", the words, figures, brackets and letter "any interested person has a substantial interest as provided in *Explanation 3* below sub-section (*4*) of section 80F of the Income-tax Act" shall be substituted;

(*ii*) for the words, brackets and figure "any person referred to in the aforesaid sub-section (*3*)", the words "any interested person" shall be substituted;

(*f*) in the third proviso,—

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) in the case of any trust or institution of national importance notified under clause (*d*) of sub-section (*1*) of section 80F of the Income-tax Act,—

(*i*) the provisions of clause (*i*) and clause (*ii*) shall not apply; and

(*ii*) the other provisions of this section shall apply with the modification that for the words "at the maximum marginal rate", the words and figures "at the rates specified in Part I of Schedule I in the case of an individual" shall be substituted;';

(*ii*) in clause (*b*), for the words, brackets and figures "clauses (*i*) to (*iii*)", the words, brackets and figures "clauses (*i*) and (*ii*)" shall be substituted;

(*g*) in the *Explanation*, for clauses (*a*) and (*aa*), the following clauses shall be substituted, namely:—

'(*a*) the expression "interested person" shall have the meaning assigned to it in clause (*a*) of *Explanation 1* below sub-section (4) of section 80F of the Income-tax Act;

(*ab*) any part of the property or income of a trust shall be deemed to have been used or applied for the benefit of any interested person in every case in which it can be so deemed to have been used or applied within the meaning of clause (*c*) of sub-section (3) of section 80F of the Income-tax Act at any time during the period of twelve months ending with the relevant valuation date;'.

Amendment of section 21AA.

**145.** In section 21AA of the Wealth-tax Act, in sub-section (*1*), for the portion beginning with the words "purposes of this Act" and ending with the words "beneficial to the revenue", the words "purposes of this Act, and at the maximum marginal rate" shall be substituted.

Amendment of section 23.

**146.** In section 23 of the Wealth-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) for clause (*d*), the following clause shall be substituted, namely:—

"(*d*) objecting to any penalty imposed by the Assessing Officer under section 18 as it stood immediately before the 1st day of April, 1989 or under section 18 as amended by the Direct Tax Laws (Amendment) Act, 1987;";

(*ii*) clause (*i*) shall be omitted;

(*b*) in sub-section (*1A*), for clauses (*b*), (*c*) and (*d*), the following clauses shall be substituted, namely:—

"(*b*) objecting to any penalty imposed under clause (*c*) of sub-section (*1*) of section 18 as it stood immediately before the 1st day of April, 1989 in respect of any assessment year commencing on the 1st day of April, 1988 or any earlier assessment year where such penalty has been imposed with the previous approval of the Deputy Commissioner under sub-section (*3*) of that section; or

(*c*) objecting to any assessment or order referred to in clauses (*a*) to (*h*) (both inclusive) of sub-section (*1*), where such

assessment or order has been made by the Deputy Commissioner in exercise of the powers or functions conferred on or assigned to him under section 8 or section 11; or

(*d*) objecting to any penalty imposed by the Deputy Director or the Deputy Commissioner under section 18A.";

(*c*) for sub-sections (*1B*), and (*1C*), the following sub-section shall be substituted, namely:—

"(*1B*) Notwithstanding anything contained in sub-section (*1*), the Board or the Director General or Chief Commissioner or Commissioner if so authorised by the Board, may, by order in writing, transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals) if the Board or, as the case may be, the Director General, Chief Commissioner or Commissioner (at the request of the appellant or otherwise) is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was before it was so transferred:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be re-opened or that he be reheard;";

(*d*) in sub-section (*2A*), the proviso shall be omitted.

Insertion of new section 23A.

**147.** After section 23 of the Wealth-tax Act, the following section shall be inserted, namely:—

Application by the assessee in certain cases.

"23A. (*1*) Where before furnishing a return of net wealth under sub-section (*1*) of section 14 or section 15 or sub-section (*4*) of section 16 for any assessment year, any question arises as to whether,—

(*a*) any wealth is includible or not in computing the net wealth (hereafter in this section referred to as the disputed wealth), or

(*b*) any exemption or deduction is admissible or not in computing the net wealth (hereafter in this section referred to as the disputed deduction),

the assessee shall, after furnishing such return, make an application under sub-section (*2*):

Provided that the assessee,—

(*i*) shall include in such return the disputed wealth and shall not claim the disputed deduction; and

(*ii*) shall also pay thirty per cent. of the tax due on the disputed wealth and in respect of the amount of disputed deduction,

(2) The application under sub-section (1) may be made within thirty days of furnishing the aforesaid return, to the Deputy Commissioner (Appeals) or, as the case may be, to the Commissioner (Appeals).

(3) For the purpose of disposing of an application under sub-section (1), the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may—

(a) conduct such inquiry or call for such books of account, other documents or information which he deems necessary; or

(b) direct the Assessing Officer to conduct such inquiry and furnish the report thereon,

and thereafter decide the question raised in the application and pass such orders thereon as he thinks fit.

(4) The provisions relating to filing of appeals under this Act shall, so far as may be, apply to the making of an application under this section as if such application were an appeal.".

Amendment of section 31.

148. In section 31 of the Wealth-tax Act,—

(a) in sub-section (1) and the proviso to that sub-section, for the words "thirty-five days", in the three places where they occur, the words "thirty days" shall be substituted;

(b) in sub-section (2),—

(i) for the words, brackets and figure "fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1)", the words, brackets and figure "one and one-half per cent. for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid" shall be substituted;

(ii) in the proviso, after the words and figures "or section 35", the words, brackets, figures and letter "or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D" shall be inserted;

(iii) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that in respect of any period commencing on or before the 31st day of March, 1989, and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent. for every month or part of a month.".

Amendment of section 32.

149. In section 32 of the Wealth-tax Act,—

(a) for the words "and to Wealth-tax Officer and Commissioner of Wealth-tax instead of to Income-tax Officer and Commissioner of

Income-tax", the words "and to the corresponding wealth-tax authorities instead of to the income-tax authorities specified therein" shall be substituted;

(*b*) for *Explanation II*, the following *Explanation* shall be substituted, namely:—

"*Explanation II.*—The Chief Commissioner or Commissioner and the Tax Recovery Officer referred to in the Income-tax Act shall be deemed to be the corresponding wealth-tax authorities for the purpose of recovery of wealth-tax and sums imposed by way of penalty, fine and interest under this Act.".

Amendment of section 34A.

150. In section 34A of the Wealth-tax Act,—

(*i*) to sub-section (*1*), the following proviso shall be added, namely:—

"Provided that where, by the order aforesaid,—

(*a*) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(*b*) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.";

(*ii*) after sub-section (*4*), the following sub-sections shall be inserted, namely:—

"(*4A*) The provisions of sub-sections (*3*), (*3A*) and (*4*) shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989, or any subsequent assessment year.

(*4B*) (*a*) Where, in pursuance of any order passed under this Act, the refund of any amount becomes due to the assessee he shall, subject to the provisions of this sub-section, be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one and a half per cent. for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

*Explanation.*—For the purposes of this clause, "date of payment of the tax or penalty" means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 30 is paid in excess of such demand.

(*b*) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee, whether wholly or in part, period of the delay so attributable to him shall be excluded from the period for which interest is payable and where any question arises as to the period to be excluded, it shall be decided by the Chief Commissioner or Commissioner whose decision thereon shall be final.

(c) Where, as a result of an order under section 17 or section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D, the amount on which interest was payable under clause (*a*) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 30 and the provisions of this Act shall apply accordingly.

(d) The provisions of this sub-section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years.''.

Amendment of section 35

**151.** In section 35 of the Wealth-tax Act, in sub-section (*1*), clause (*aa*) shall be renumbered as clause (*aaa*) and before clause (*aaa*) as so renumbered, the following clause shall be inserted, namely:—

"(*aa*) a wealth-tax authority may amend any intimation sent by it under sub-section (*1*) of section 16 or enhance or reduce the amount of refund granted by it under that sub-section.''.

Amendment of section 35K.

**152.** In section 35K of the Wealth-tax Act,—

(*a*) in sub-section (*1*), for the words "an assessment year", the words, figures and letters "the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year" shall be substituted;

(*b*) in sub-section (*2*), for the words, figures and letters "any of the Wealth-tax authorities specified in sections 8, 9, 9A, 10, 10A and 11", the words and brackets "any Wealth-tax authority (not being an Inspector of Income-tax)" shall be substituted.

Amendment of section 37.

**153.** In section 37 of the Wealth-tax Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) If the Director General or Director or the authorised officer referred to in sub-section (*1*) of section 37A, before he takes action under clauses (*i*) to (*vi*) of that sub-section, has reason to suspect that any net wealth has been concealed, or is likely to be concealed, by any person or class of persons within his jurisdiction, then, for the purposes of making any inquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (*1*) on the wealth-tax authorities referred to in that section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other wealth-tax authority.";

(*b*) sub-section (*2*) shall be omitted;

(c) in sub-section (3),—

(i) after the words, brackets and figure "in sub-section (1)", the words, brackets, figure and letter "or sub-section (1A)" shall be inserted;

(ii) in the proviso, after the words "Valuation Officer", the words "or an Assistant Director" shall be inserted.

Amendment of section 37A.

**154.** In section 37A of the Wealth-tax Act,—

(1) in sub-section (1),—

(a) in clause (c), for the words "any articles or things including money", the words "any money, bullion, jewellery or other valuable article or thing" shall be substituted;

(b) in clauses (A) and (B), for the words "or Wealth-tax Officer" the words "Assistant Commissioner or Income-tax Officer" shall be substituted;

(c) in clauses (i) and (ii), for the words "articles or things including money", the words "money, bullion, jewellery or other valuable article or thing" shall be substituted;

(d) for clause (iv), the following clause shall be substituted, namely:—

"(iv) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search;";

(e) in clause (vi), for the words "any articles or things including money", the words "any money, bullion, jewellery or other valuable article or thing" shall be substituted;

(f) in the proviso, for the word and figures "section 10", the word and figure "section 8" shall be substituted;

(g) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (iv) of this sub-section.";

(2) in sub-section (2),—

(a) for the words "articles or things including money", the words "money, bullion, jewellery or other valuable article or thing" shall be substituted;

(*b*) for the word and figures "section 10", the word and figure "section 8" shall be substituted;

(*3*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) The authorised officer may, where it is not practicable to seize any books of account, other documents, money, bullion, jewellery or other valuable article or thing, for reasons other than those mentioned in the second proviso to sub-section (*1*), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

*Explanation.*—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (*iv*) of sub-section (*1*).";

(4) in sub-section (4), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of matters relevant for the purposes of any investigation connected with any proceedings under this Act.";

(5) after sub-section (5), the following sub-sections shall be inserted, namely:—

"(*5A*) Where any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 37B and 37C referred to as the assets) is seized under sub-section (*1*) or sub-section (*2*), the Assessing Officer, after affording a reasonable opportunity to the person concerned of being heard and making such inquiry as may be prescribed, shall, within one hundred and twenty days of the seizure, make an order, with the previous approval of the Deputy Commissioner,—

(*i*) estimating the undisclosed net wealth in a summary manner to the best of his judgment on the basis of such materials as are available with him;

(*ii*) calculating the amount of tax on the net wealth so estimated in accordance with the provisions of this Act;

(*iii*) determining the amount of interest payable and the amount of any penalty imposable in accordance with the provisions of this Act, as if the order had been the order of regular assessment;

(*iv*) specifying the amount that will be required to satisfy any existing liability under this Act in respect of which such person is in default or is deemed to be in default,

and retain in his custody such assets or part thereof as are in his opinion sufficient to satisfy the aggregate of the amounts referred to in clauses (*ii*), (*iii*) and (*iv*) and forthwith release the remaining portion, if any, of the assets to the person from whose custody they were seized:

Provided that where a person has paid or made satisfactory arrangements for payment of all the amounts referred to in clauses (*ii*), (*iii*) and (*iv*) or any part thereof, the Assessing Officer, may with the previous approval of the Chief Commissioner or Commissioner release the assets or such part thereof as he may deem fit in the circumstances of the case.

(*5B*) The assets retained under sub-section (*5A*) may be dealt with in accordance with the provisions of section 37C.

(*5C*) If the Assessing Officer is satisfied that the seized assets or any part thereof were held by such person for or on behalf of any other person, the Assessing Officer may proceed under sub-section (*5A*) against such other person and all the provisions of this section shall apply accordingly.";

(*6*) after sub-section (*6*), the following sub-section shall be inserted, namely:—

"(*6A*) An order under sub-section (*3A*) shall not be in force for a period exceeding sixty days from the date of the order, except where the authorised officer, for reasons to be recorded in writing by him, extends the period of operation of the order beyond sixty days, after obtaining the approval of the Chief Commissioner or Commissioner for such extension:

Provided that the Chief Commissioner or Commissioner shall not approve the extension of the period for any period beyond the expiry of thirty days after the completion of the proceedings under this Act in respect of the years for which the books of account, other documents, money, bullion, jewellery or other valuable articles or things are relevant.";

(*7*) after sub-section (*9*), the following sub-section shall be inserted, namely:—

"(*9A*) If any person objects for any reason to an order made under sub-section (*5A*), he may, within thirty days from the date of such order, make an application to the Chief Commissioner or Commissioner stating therein the reasons for such objection and requesting for appropriate relief in the matter.";

(*8*) for sub-section (*10*), the following sub-section shall be substituted, namely:—

"(*10*) On receipt of the application under sub-section (*9*), the Board, or on receipt of the application under sub-section (*9A*), the Chief Commissioner or Commissioner, may, after giving the applicant an opportunity of being heard, pass such orders as it or he thinks fit.";

(*9*) after sub-section (*12*), the following *Explanations* shall be inserted, namely:—

'*Explanation 1.*—In computing the period referred to in sub-section (*5A*) for the purposes of that sub-section, any period during

which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

*Explanation 2.*—In this section, the word "proceeding" means any proceeding in respect of any year under this Act which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also proceedings under this Act which may be commenced after such date in respect of any year.'.

Amendment of section 37B.

**155.** In section 37B of the Wealth-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*c*), for the words "any articles or things including money", the words "any assets" shall be substituted;

(*ii*) for the words "or Wealth-tax Officer", the words "Assistant Commissioner or Income-tax Officer" shall be substituted;

(*iii*) for clauses (*i*) and (*ii*), the words "to deliver such books of account, other documents, or assets to the requisitioning officer" shall be substituted;

(*b*) in sub-section (*2*), for clauses (*i*) and (*ii*), the following shall be substituted, namely:—

"the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of that sub-section shall deliver the books of account, other documents, or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.";

(*c*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

'(*3*) Where any books of account, other documents, or assets have been delivered to the requisitioning officer, the provisions of sub-sections (*5*) to (*12*) (both inclusive) of section 37A and section 37C shall, so far as may be, apply as if such books of account, other documents, or assets had been seized under sub-section (*1*) of section 37A by the requisitioning officer from the custody of the person referred to in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (*1*) of this section and as if for the words "the authorised officer" occurring in sub-sections (*5*) to (*12*) aforesaid, the words "the requisitioning officer" were substituted.'.

Insertion of new section 37C.

**156.** After section 37B of the Wealth-tax Act, the following section shall be inserted, namely:—

Application of retained assets.

"37C. (*1*) The assets retained under sub-section (*5A*) of section 37A may be dealt with in the following manner, namely:—

(*i*) the amount of the existing liability referred to in clause (*iv*) of the said sub-section and the amount of the liability deter-

mined on completion of the regular assessment or re-assessment for all the assessment years for which the net wealth referred to in clause (*i*) of that sub-section is assessable to tax (including any penalty levied or interest payable, in connection with such assessment or re-assessment) and in respect of which the assessee is in default or is deemed to be in default may be recovered out of such assets;

(*ii*) if the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in clause (*i*) and the assessee shall be discharged of such liabilities to the extent of the money so applied;

(*iii*) the assets other than money may also be applied for the discharge of any such liability referred to in clause (*i*) as remains undischarged and for this purpose such assets shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer under authorisation from the Chief Commissioner or Commissioner under sub-section (5) of section 226 of the Income-tax Act as made applicable to this Act by section 32, and the Assessing Officer may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in the Third Schedule to the Income-tax Act as made applicable to this Act by section 32.

(*2*) Nothing contained in sub-section (*1*) shall preclude the recovery of the amount of liabilities aforesaid by any other mode laid down in this Act.

(*3*) Any assets or proceeds thereof which remain after the liabilities referred to in clause (*i*) of sub-section (*1*) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized.

(*4*) (*a*) The Central Government shall pay simple interest at the rate of fifteen per cent. per annum on the amount by which the aggregate of the money retained under section 37A and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (*iv*) of sub-section (*5A*) of that section exceeds the aggregate of the amounts required to meet the liabilities referred to in clause (*i*) of sub-section (*1*) of this section.

(*b*) Such interest shall run from the date immediately following the expiry of the period of six months from the date of the order under sub-section (*5A*) of section 37A to the date of the regular assessment or re-assessment referred to in clause (*i*) of sub-section (*1*) or, as the case may be, to the date of the last of such assessments or re-assessments.".

Amendment of section 38.

157. In section 38 of the Wealth-tax Act,—

(*a*) for the words "Where, for the purposes of determining the wealth-tax payable by any person", the words "Where, for the purposes of this Act" shall be substituted;

(*b*) for the words "the Wealth-tax Officer", in the fiirst place where they occur, the words "any wealth-tax authority" and, in the second and third places where they occur, the words "such wealth-tax authority" shall be substituted;

(*c*) after the words "from any individual, company", the brackets and words "(including a banking company)" shall be inserted.

Amendment of section 45.

**158.** In section 45 of the Wealth-tax Act, after clause (*i*) and the *Explanation* thereto, the following clause shall be inserted, namely:—

"(*j*) a Mutual Fund specified under clause (*23D*) of section 10 of the Income-tax Act.".

Insertion of new section 47.

**159.** After section 46A of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of April, 1988, namely:—

Power to remove difficulties.

"**47.** (*1*) If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

(*2*) Every order made under sub-section (*1*) shall be laid before each House of Parliament.".

Consequential amendments.

**160.** The following amendments (being amendments of a consequential nature) shall be made in the Wealth-tax Act with effect from the 1st day of April, 1989, namely:—

(*1*) in section 5, in sub-section (*1*), in clause (*i*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that nothing contained in this clause shall apply to any property forming part of any business, not being a business,—

(*a*) the income whereof qualifies for deduction under section 80F of the Income-tax Act; or

(*b*) a business carried on by an institution, fund or trust referred to in clause (22) or clause (*22A*) or clause (*23B*) or clause (23C) of section 10 of that Act;";

(2) in section 24, in sub-section (*1*), after the word and figures "section 23", the words, figures and letter "or section 23A" shall be inserted;

(3) in section 35, in sub-section (*1*),—

(*a*) for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) the Deputy Director or Deputy Commissioner or Director or Commissioner or Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 18A;";

(*b*) for clauses (*d*) and (*e*), the following clauses shall be substituted, namely:—

"(*c*) the Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 23 or section 23A;

(*d*) the Commissioner may amend any order passed by him under section 25;

(*e*) the Appellate Tribunal may amend any order passed by it under section 24.".

## CHAPTER IV

### AMENDMENTS TO THE GIFT-TAX ACT, 1958

Substitution of new authorities.

**161.** In the Gift-tax Act, 1958 (hereafter in this Chapter referred to as the Gift-tax Act), save as otherwise expressly provided in this Act, and unless the context otherwise requires, reference to any authority specified in column (*1*) of the Table below shall be substituted with effect from the 1st day of April, 1988 by references to the authority or authorities specified in the corresponding entry in column (*2*) of the said Table, and such consequential changes as the rules of grammar may require, shall also be made; 18 of 1958.

TABLE

| (1) | (2) |
|---|---|
| Director of Inspection | Director General or Director |
| Deputy Director of Inspection | Deputy Director |
| Assistant Director of Inspection | Assistant Director |
| Commissioner or Commissioner of Gift-tax | Chief Commissioner or Commissioner |
| Inspecting Assistant Commissioner or Inspecting Assistant Commissioner of Gift-tax | Deputy Commissioner |
| Appellate Assistant Commissioner | Deputy Commissioner (Appeals) |
| Gift-tax Officer | Assessing Officer |
| Inspector of Gift-tax | Inspector of Income-tax: |

Provided that nothing contained in this section shall apply to the references to "Commissioner" occurring in sections 23 and 24.

Amendment of section 2.

**162.** In section 2 of the Gift-tax Act,—

(*a*) clause (*i*) shall be omitted;

(*b*) after clause (*iii*), the following clause shall be inserted, namely:—

'(*iiia*) "Assessing Officer" means the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (*1*) or sub-section (*2*) of section 120 or any other provision of the Income-tax Act which apply for the purposes of gift-tax under section 7 of this Act, and also the Deputy Commissioner who is directed under clause (*b*) of sub-section (*4*) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act;';

(c) clauses (*vi*), (*via*), (*viia*), (*xiii*), (*xv*), (*xvi*), (*xvia*) and (*xvii*) shall be omitted;

(*d*) for clause (*vii*), the following clause shall be substituted, namely:—

'(*vii*) the expressions "company", "Indian company" and "company in which the public are substantially interested" shall have the meanings respectively assigned to them under section 2 of the Income-tax Act;';

(*e*) for clause (*xi*), the following clause shall be substituted, namely:—

'(*xi*) the expressions "firm", "partner" and "partnership" shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.';

(*f*) in clause (*xx*),—

(*i*) sub-clause (*b*) shall be omitted;

(*ii*) in the first proviso, the words, brackets and letter "or sub-clause (*b*)" shall be omitted;

(*iii*) the second proviso shall be omitted;

(*g*) after clause (*xxiv*), the following clause shall be inserted, namely:—

'(*xxv*) the expressions "Chief Commissioner", "Director General", "Commissioner", "Commissioner (Appeals)", "Director", "Deputy Commissioner", "Deputy Commissioner (Appeals)", "Assistant Commissioner", "Income-tax Officer", "Tax Recovery Officer" and "Inspector of Income-tax" shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.'.

Amendment of section 3.

**163.** In section 3 of the Gift-tax Act, in sub-section (2), for the words "Subject to the other provisions contained in this Act", the words and brackets "Subject to the other provisions (including provisions for the levy of additional gift-tax) contained in this Act" shall be substituted.

Substitution of new sections for sections 7, 8, 9 and 10.

**164.** For sections 7, 8, 9 and 10 of the Gift-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:—

Gift-tax authorities and their jurisdiction.

"7. The income-tax authorities specified in section 116 of the Income-tax Act shall be the gift-tax authorities for the purposes of this Act and every such authority shall exercise the powers and perform the functions of a gift-tax authority under this Act in respect of any person within his jurisdiction, and for this purpose his jurisdiction under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning concurrent jurisdiction) or under any other provision of that Act.

*Explanation.*—For the purposes of this section, the gift-tax authority having jurisdiction in relation to a person who has no income assessable to income-tax under the Income-tax Act shall be the gift-tax authority having jurisdiction in respect of the area in which that person resides.

Control of gift-tax authorities.

8. Section 118 of the Income-tax Act and any notification issued thereunder shall apply in relation to the control of gift-tax authorities as they apply in relation to the control of the corresponding income-tax authorities, except to the extent to which the Board may, by notification in the Official Gazette, otherwise direct in respect of any gift-tax authority.

Instructions to subordinate authorities.

9. (*1*) The Board may, from time to time, issue such orders, instructions and directions to other gift-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(*a*) so as to require any gift-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(*b*) so as to interfere with the discretion of the Deputy Commissioner (Appeals) or Commissioner (Appeals) in the exercise of his appellate functions.

(2) Without prejudice to the generality of the foregoing power,—

(*a*) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 15, 16, 17 and 34 or otherwise), general or

special orders in respect of any class of cases, setting forth directions or instructions (not being prejudicial to assessees) as to the guidelines, principles or procedures to be followed by other gift-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(*b*) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any gift-tax authority, not being a Deputy Commissioner (Appeals) or Commissioner (Appeals) to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law.

Jurisdiction of Assessing Officers and power to transfer cases.

10. (*1*) The provisions of sections 124 and 127 of the Income-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Income-tax Act, subject to the modifications specified in sub-section (*2*).

(2) The modifications referred to in sub-section (*1*) shall be the following, namely:—

(*a*) in section 124 of the Income-tax Act,—

(*i*) in sub-section (*3*), references to the provisions of the Income-tax Act shall be construed as references to the corresponding provisions of the Gift-tax Act;

(*ii*) sub-section (*5*) shall be omitted;

(*b*) in section 127 of the Income-tax Act, in the *Explanation* below sub-section (*5*), references to proceedings under the Income-tax Act shall be construed as including references to proceedings under the Gift-tax Act.".

Omission of sections 7A, 7AA, 7B, 8A, 9A, 11, 11A, 11AA, 11B and 12.

**165.** Sections 7A, 7AA, 7B, 8A, 9A, 11, 11A, 11AA, 11B and 12 of the Gift-tax Act shall be omitted with effect from the 1st day of April, 1988.

Amendment of section 13.

**166.** In section 13 of the Gift-tax Act,—

(*a*) for sub-sections (*1*) and (*2*), the following sub-sections shall be substituted, namely:—

"(*1*) Every person who during a previous year has made any taxable gifts, or is assessable in respect of the taxable gifts made by any other person under this Act, which, in either case, exceeded the maximum amount not chargeable to gift-tax, shall, on or before the 30th day of June of the corresponding assessment

year, furnish a return of such gifts in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

(2) Notwithstanding anything contained in any other provision of this Act, a return which shows the amount of taxable gifts below the maximum amount which is not chargeable to tax shall be deemed never to have been furnished:

Provided that this sub-section shall not apply to a return furnished in response to a notice under section 16.";

(*b*) sub-section (3) shall be omitted.

Substitution of new section for section 14.

**167.** For section 14 of the Gift-tax Act, the following section shall be substituted, namely:—

Return after due date and amendment of return.

"14. If any person has not furnished a return within the time allowed under sub-section (1) of section 13 or by a notice issued under clause (*i*) of sub-section (4) of section 15, or having furnished a return discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier:

Provided that—

(*a*) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year, it may be furnished at any time up to and inclusive of the 31st day of March, 1990 or before the completion of the assessment, whichever is earlier;

(*b*) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1988, it may be furnished at any time up to and inclusive of the 31st day of March, 1991, or before the completion of the assessment, whichever is earlier.".

Amendment of section 14A.

**168.** In section 14A of the Gift-tax Act,—

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) in the case of an individual,—

(*i*) by the individual himself;

(*ii*) where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf;

(*iii*) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

(*iv*) where, for any other reason, it is not possible for the individual to sign the return, by any person duly authorised by him in this behalf:

Provided that in a case referred to in sub-clause (*ii*) or sub-clause (*iv*), the person signing the return holds a valid power of attorney from the individual to do so, which shall be attached to the return;";

(*ii*) to clause (c), the following provisos shall be added, namely:—

"Provided that where the company is not resident in India, the return may be signed and verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return:

Provided further that,—

(*a*) where the company is being wound up, whether under the orders of the court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be signed and verified by the liquidator referred to in sub-section (*1*) of section 178 of the Income-tax Act;

(*b*) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be signed and verified by the principal officer thereof.".

Insertion of new section 14B.

**169.** After section 14A of the Gift-tax Act, the following section shall be inserted, namely:—

Self-assessment.

"14B. (*1*) Where any tax is payable on the basis of any return furnished under section 13 or under section 14 or in response to a notice under clause (*i*) of sub-section (*4*) of section 15 or under section 16, after taking into account the amount of tax, if any, already paid under any provision of this Act, the assessee shall be liable to pay such tax, together with interest payable under any provision of this Act for any delay in furnishing the return, before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest.

*Explanation.*—Where the amount paid by the assessee under this sub-section falls short of the aggregate of the tax and interest as aforesaid, the amount so paid shall first be adjusted towards the interest payable as aforesaid and the balance, if any, shall be adjusted towards the tax payable.

(*2*) After the regular assessment under section 15 has been made, any amount paid under sub-section (*1*) shall be deemed to have been paid towards such regular assessment.

(*3*) If any assessee fails to pay the whole or any part of such tax or interest or both in accordance with the provisions of sub-section (*1*), he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid and all the provisions of this Act shall apply accordingly.".

Substitution of new section for section 15.

**170.** For section 15 of the Gift-tax Act, the following section shall be substituted, namely:—

Assessment.

'15. (*1*) (*a*) Where a return has been made under section 13 or section 14 or in response to a notice under clause (*i*) of sub-section (*4*),—

(*i*) if any tax or interest is found due on the basis of such return after adjustment of any amount paid by way of tax or interest, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice issued under section 31 and all the provisions of this Act shall apply accordingly; and

(*ii*) if any refund is due on the basis of such return, it shall be granted to the assessee:

Provided that in computing the tax or interest payable by, or refundable to, the assessee the following adjustments shall be made in the taxable gifts declared in the return, namely:—

(*i*) any arithmetical errors in the return, accounts or documents accompanying it shall be rectified;

(*ii*) any exemption or deduction, which, on the basis of the information available in such return, accounts or documents, is *prima facie* admissible but which is not claimed or made in the return, shall be allowed;

(*iii*) any exemption or deduction claimed or made in the return, which, on the basis of the information available in such return, accounts or documents, is *prima facie* inadmissible, shall be disallowed:

(*b*) Where, as a result of an order made under section 16 or section 22 or section 23 or section 24 or section 26 or section 28 or section 34 relating to any earlier assessment year and passed subsequent to the filing of the return referred to in clause (*a*), there is any variation in the exemption or deduction claimed or made in the return, and as a result of which,—

(*i*) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 31 and all the provisions of this Act shall apply accordingly; and

(*ii*) if any refund is due, it shall be granted to the assessee:

Provided that an intimation for any tax or interest due under this clause shall not be sent after the expiry of four years from the end of the financial year in which any such order was passed.

(*2*) In a case referred to in sub-section (*1*), if the Assessing Officer considers it necessary or expedient to ensure that the assessee has not omitted to disclose any taxable gift or has not understated

the amount or value of any such gift or has not under-paid the tax in any manner he shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend at the office of the Assessing Officer or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of the financial year in which the return is furnished or on the expiry of six months from the end of the month in which the return is furnished, whichever is later.

(3) On the date specified in the notice issued under sub-section (2) or, as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by order in writing, assess the value of taxable gifts made by the assessee and determine the sum payable by him on the basis of such assessment.

(4) For the purposes of making an assessment under this Act, the Assessing Officer may serve, on any person who has made a return under section 13 or section 14 or in whose case the time allowed under sub-section (1) of section 13 for furnishing the return has expired, a notice requiring him, on a date to be specified therein,—

(*i*) where such person has not made a return before the end of the relevant assessment year, to furnish a return of the taxable gifts made by him or of the taxable gifts made by any other person in respect of which he is assessable under this Act during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, or

(*ii*) to produce or cause to be produced such accounts, records or other documents as the Assessing Officer may require.

(5) If any person,—

(*a*) fails to make the return required under sub-section (1) of section 13 and has not made a return or a revised return under section 14, or

(*b*) fails to comply with all the terms of a notice issued under sub-section (2) or sub-section (4),

the Assessing Officer, after taking into account all relevant material which he has gathered, shall, after giving such person an opportunity of being heard, estimate the value of taxable gifts to the best of his judgment and determine the sum payable by such person on the basis of such assessment:

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the person to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (4) has been issued prior to the making of the assessment under this sub-section.

(6) Notwithstanding anything contained in section 6, for the purpose of making an assessment under this Act, the Assessing Officer may refer the valuation of such property to the Valuation Officer,—

(a) in a case where the value of the property as returned is in accordance with the estimate made by a registered valuer, if the Assessing Officer is of opinion that the value so returned is less than its fair market value;

(b) in any other case, if the Assessing Officer is of opinion—

(i) that the fair market value of the property exceeds the value of the property as returned by more than such percentage of the value of the property as returned or by more than such amount as may be prescribed in this behalf; or

(ii) that having regard to the nature of the property and other relevant circumstances, it is necessary so to do,

and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clauses (*ha*) and (*i*) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957, shall, with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Assessing Officer under sub-section (1) of section 16A of that Act. 27 of 1957.

*Explanation.*—In this sub-section, "Valuation Officer" has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957.'. 27 of 1957.

Amendment of section 16.

171. In section 16 of the Gift-tax Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) If the Assessing Officer, for reasons to be recorded by him in writing, is of the opinion that the taxable gifts in respect of which any person is assessable under this Act (whether made by him or by any other person) have escaped assessment for any assessment year (whether by reason of under-assessment or assessment at too low a rate or otherwise), he may, subject to the other provisions of this section and section 16A, serve on such person a notice requiring him to furnish within such period not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner, setting forth the taxable gifts made by him or by such other person during the previous year mentioned in the notice, in respect of which he is assessable, along with such other particulars as may be required by the notice, and may proceed to assess or

re-assess such gifts and also any other taxable gifts in respect of which such person is assessable, which have escaped assessment and which come to his notice subsequently in the course of the proceedings under this section for the assessment year concerned (hereafter in this section referred to as the relevant assessment year); and the provisions of this Act shall, so far as may be, apply as if the return were a return required under section 13:

Provided that where an assessment under sub-section (3) of section 15 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any taxable gift chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 13 or section 14 or in response to a notice issued under sub-section (4) of section 15 or this section or to disclose fully and truly all material facts necessary for his assessment for that assessment year.

*Explanation.*—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

(*1A*) No notice under sub-section (*1*) shall be issued for the relevant assessment year,—

(*a*) in a case where an assessment under sub-section (*3*) of section 15 or sub-section (*1*) of this section has been made for such assessment year,—

(*i*) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (*ii*) or sub-clause (*iii*);

(*ii*) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year;

(*iii*) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to rupees one lakh or more for that year;

(*b*) in any other case,—

(*i*) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (*ii*) or sub-clause (*iii*);

(*ii*) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to rupees twenty-five thousand or more for that year;

(*iii*) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year.

*Explanation.*—For the purposes of sub-section (*1*) and sub-section (*1A*), the following shall also be deemed to be cases where taxable gifts chargeable to tax have escaped assessment, namely:—

(*a*) where no return of taxable gifts has been furnished by the assessee although the taxable gifts made by him or the taxable gifts made by any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to gift-tax;

(*b*) where a return of taxable gifts has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the amount or value of the taxable gifts or has claimed excessive exemption or deduction in the return.

(*1B*) (*a*) In a case where an assessment under sub-section (*3*) of section 15 or sub-section (*1*) of this section has been made for the relevant assessment year, no notice shall be issued under sub-section (*1*) except by an Assessing Officer of the rank of Assistant Commissioner or Deputy Commissioner:

Provided that, after the expiry of four years from the end of the relevant assessment year, no such notice shall be issued unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer aforesaid, that it is a fit case for the issue of such notice.

(*b*) In a case other than a case falling under clause (*a*), no notice shall be issued under sub-section (*1*) by an Assessing Officer, who is below the rank of Deputy Commissioner, after the expiry of four years from the end of the relevant assessment year, unless the Deputy Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.";

(*b*) in sub-section (*2*), the words "or by a court in any proceedings under any other law" shall be added at the end.

Amendment of section 16A.

**172.** In section 16A of the Gift-tax Act,—

(*a*) for sub-sections (*1*) and (*2*), the following sub-sections shall be substituted, namely:—

"(*1*) No order of assessment shall be made under section 15 at any time after the expiry of one year from the end of the assessment year in which the gifts were first assessable:

Provided that where the gifts were first assessable in the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment may be made on or before the 31st day of March, 1990.

(*2*) No order of assessment or reassessment shall be made under section 16 after the expiry of two years from the end of the financial year in which the notice under sub-section (*1*) of that section was served:

Provided that,—

(*i*) where the notice under clause (*a*) of sub-section (*1*) of section 16 was served during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990;

(*ii*) where the notice under clause (*b*) of sub-section (*1*) of section 16 relates to the assessment for the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990, or the expiry of two years from the end of the financial year in which such notice was served, whichever is later.

*Explanation.*—References to section 16 in the proviso shall be construed as references to that section as it stood before its amendment by the Direct Tax Laws (Amendment) Act, 1987.";

(*b*) in sub-section (*3*),—

(*i*) for the words "four years", the words "two years" shall be substituted;

(*ii*) the following proviso shall be inserted at the end, namely:—

"Provided that where the order setting aside or cancelling the assessment was passed during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, the order of fresh assessment may be made on or before the 31st day of March, 1990.".

Insertion of new section 16B.

**173.** After section 16A of the Gift-tax Act, the following section shall be inserted, namely:—

Interest for defaults in

'16B. (*1*) Where a return of gifts for any assessment year under sub-section (*1*) of section 13 or section 14, or in response to a notice under clause (*i*) of sub-section (*4*) of section 15, is furnished after the

furnishing return of gifts.

30th day of June of such year, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every monht or part of a month comprised in the period commencing of the 1st day of July of the assessment year, and,—

(*a*) where the return is furnished after the 30th day of June ending on the date of furnishing of the return; or

(*b*) where no return has been furnished, ending on the date of completion of the assessment under sub-section (5) of section 15,

on the amount of tax payable on the taxable gifts as determined on regular assessment.

*Explanation 1.*—In this sub-section and sub-section (3), "tax payable on the taxable gifts as determined on regular assessment" shall not include the additional gift-tax, if any, payable under section 18B.

*Explanation* 2.— Where in relation to an assessment year the assessment is made for the first time under section 16, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(2) The interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 14B towards the interest chargeable under this section.

(3) Where the return of gifts for any assessment year, required by a notice under sub-section (1) of section 16 issued after the completion of an assessment under sub-section (3) or sub-section (5) of section 15 or section 16, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

(*a*) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(*b*) where no return has been furnished, ending on the date of completion of the reassessment under section 16,

on the amount by which the tax on the taxable gifts determined on the basis of such reassessment exceeds the tax on the taxable gifts as determined on the basis of the earlier assessment aforesaid.

*Explanation.*—In this sub-section, "tax on the taxable gifts determined on the basis of the reassessment under section 16" shall not include the additional gift-tax, if any, payable under section 18B.

(4) Where, as a result of an order under section 22 or section 23 or section 24 or section 26 or section 28 or section 34, the amount of tax on which interest was payable under this section has

been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and,—

(*i*) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 31 and the provisions of this Act shall apply accordingly, and

(*ii*) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.'.

Substitution of new sections for sections 17 and 17A.

**174.** For sections 17 and 17A of the Gift-tax Act, the following sections shall be substituted, namely:—

Penalty for failure to comply with notices.

'**17.** (*1*) If the Assessing Officer, in the course of any proceedings under this Act, is satisfied that any person has failed to comply with the notice under sub-section (2) or sub-section (4) of section 15, the Assessing Officer may, by order in writing, direct that such person shall pay, by way of penalty, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure:

Provided that—

(*a*) no penalty shall be imposable under this section if the person proves that there was reasonable cause for the failure referred to in this sub-section;

(*b*) no order imposing a penalty under this section shall be made—

(*i*) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(*ii*) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.

(2) No order shall be made under sub-section (*1*) unless the person concerned has been heard or has been given a reasonable opportunity of being heard.

(3) No order imposing a penalty under sub-section (*1*) shall be passed after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of

the month in which action for imposition of penalty is initiated, whichever period expires later.

*Explanation.*—In computing the period of limitation for the purposes of this section,—

(*i*) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 38; and

(*ii*) any period during which a proceeding under this section for the levy of the penalty is stayed by an order or injunction of any court,

shall be excluded.

Penalty for failure to answer questions, sign statements, furnish information, allow inspections, etc.

17A. (*1*) If a person,—

(*a*) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by a gift-tax authority in the exercise of his powers under this Act; or

(*b*) refuses to sign any statement made by him in the course of any proceedings under this Act, which a gift-tax authority may legally require him to sign; or

(*c*) to whom a summons is issued under sub-section (*1*) of section 36, either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time,

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure:

Provided that no penalty shall be imposable under clause (*c*) if the person proves that there was reasonable cause for the said failure.

(*2*) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 37, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues:

Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

(*3*) Any penalty imposable under sub-section (*1*) or sub-section (*2*) shall be imposed—

(*a*) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before a gift-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such gift-tax authority;

(*b*) in any other case, by the Deputy Director or the Deputy Commissioner.

(*4*) No order under this section shall be passed by any gift-tax authority referred to in sub-section (*3*) unless the person on whom penalty is proposed to be imposed has been heard or has been given a reasonable opportunity of being heard in the matter by such authority.

*Explanation.*—In this section, "gift-tax authority" includes a Director General, Director, Deputy Director, Assistant Director or Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in sub-section (*1*) of section 36.'.

5 of 1908.

**175.** In the Gift-tax Act, after section 18A, the following Chapter shall be inserted, namely:— Insertion of new Chapter IVA.

"CHAPTER IVA

CHARGE OF ADDITIONAL GIFT-TAX IN CERTAIN CASES

Additional gift-tax.

18B. (*1*) Where, in the case of any person, the value of taxable gifts determined in the regular assessment for any assessment year (hereafter in this section referred to as assessed taxable gifts) exceeds the value of taxable gifts declared in the return of taxable gifts furnished by such person for that assessment year (hereafter in this section referred to as returned taxable gifts) by any amount, the Assessing Officer shall make an order in writing that such person shall, apart from the sum determined as payable by him on the basis of the assessment under section 15, be liable to pay, by way of additional gift-tax, in respect of the said assessment year, a sum calculated on such excess amount at the rate of twenty per cent.

(*2*) For the purposes of sub-section (*1*),—

(*a*) where such person has furnished two or more returns of taxable gifts for the same assessment year, the value of taxable gifts declared in the return furnished last before the service of a notice under sub-section (*2*) of section 15 on such person shall be treated as the returned taxable gifts;

(*b*) where such person fails to furnish the return of taxable gifts in respect of any assessment year and the assessment for that year is made under sub-section (*5*) of section 15, the returned taxable gifts shall be taken to be *nil*;

(*c*) where such person fails to furnish a return of taxable gifts for any assessment year under section 13 or section 14, but furnishes such return after he is served with a notice under section 16, the returned taxable gifts shall be taken to be *nil*.

(*3*) Where, as a result of an order under section 16 or section 22 or section 23 or section 24 or section 26 or section 28 or section 34, the amount on which the additional gift-tax is payable

under sub-section (*1*) has been increased or reduced, as the case may be, the additional gift-tax shall be increased or reduced accordingly, and,—

(*i*) in a case where the additional gift-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 31 and the provisions of this Act shall apply accordingly;

(*ii*) in a case where the additional gift-tax is reduced, the excess amount paid, if any, shall be refunded.

(*4*) The Chief Commissioner or Commissioner may, in his discretion, whether on his own motion or otherwise, waive or reduce the amount of additional gift-tax payable under sub-section (*1*) by any person, if he is satisfied that the whole or, as the case may be, any part of the excess amount referred to in that sub-section is attributable to any amount added or disallowed in computing the assessed taxable gifts, as a result of the rejection of any explanation (by way of interpretation of any provision of this Act or otherwise) offered by such person, if such explanation is *bona fide* and all the facts relating to the same and material to the computation of the assessed taxable gifts have been disclosed by him:

Provided that,—

(*i*) where an appeal before the Deputy Commissioner (Appeals) or Commissioner (Appeals) or the Appellate Tribunal has also been filed by the assessee against the order of assessment, the petition for waiver or reduction of the amount of additional gift-tax can be filed by the assessee only after the decision on such appeal;

(*ii*) the petition for waiver or reduction of the amount of additional gift-tax shall be accompanied by a fee of one hundred rupees.

(*5*) The additional gift-tax payable under this section shall not be included in the amount of tax payable on the taxable gifts as determined on regular assessment, for the purposes of section 16B.".

**Amendment of section 22.**

**176.** In section 22 of the Gift-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) for clause (*d*), the following clause shall be substituted, namely:—

"(*d*) objecting to any penalty imposed by the Assessing Officer under section 17 as it stood immediately before the 1st day of April, 1989 or under section 17 as amended by the Direct Tax Laws (Amendment) Act, 1987;";

(*ii*) clause (*h*) shall be omitted;

(*b*) in sub-section (*1A*), for clauses (*b*), (*c*) and (*d*), the following clauses shall be substituted, namely:—

"(*b*) objecting to any assessment or order referred to in clauses (*a*) to (*g*) (both inclusive) of sub-section (*1*), where such assessment or order has been made by the Deputy Commissioner in exercise of the powers or functions conferred on or assigned to him under section 7 or section 10; or

(*c*) objecting to any penalty imposed under clause (*c*) of sub-section (*1*) of section 17 as it stood immediately before the 1st day of April, 1989 in respect of any assessment year commencing on the 1st day of April, 1988 or any earlier assessment year where such penalty has been imposed with the previous approval of the Deputy Commissioner under sub-section (*3*) of that section; or

(*d*) objecting to any penalty imposed by the Deputy Director or the Deputy Commissioner under section 17A;";

(*c*) for sub-sections (*1B*) and (*1C*), the following sub-section shall be substituted, namely:—

"(*1B*) Notwithstanding anything contained in sub-section (*1*), the Board or the Director General or the Chief Commissioner or the Commissioner, if so authorised by the Board, may, by order in writing, transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals), if the Board or, as the case may be, the Director General, the Chief Commissioner or the Commissioner (at the request of the appellant or otherwise) is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was before it was so transferred:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be reopened or that he be reheard.".

**Insertion of new section 22A.**

**177.** After section 22 of the Gift-tax Act, the following section shall be inserted, namely:—

**Application by the assessee in certain cases.**

"22A. (*1*) Where before furnishing a return of taxable gifts under sub-section (*1*) of section 13 or section 14 or sub-section (*4*) of section 15 for any assessment year, any question arises as to whether,—

(*a*) any amount is includible or not in computing the amount of taxable gifts (hereafter in this section referred to as the disputed amount), or

(*b*) any exemption or deduction is admissible or not in computing taxable gifts (hereafter in this section referred to as the disputed deduction),

the assessee shall, after furnishing such return, make an application under sub-section (2):

Provided that the assessee,—

(i) shall include in such return the disputed amount and shall not claim the disputed deduction; and

(ii) shall also pay thirty per cent. of the tax due on the disputed amount and in respect of the amount of disputed deduction.

(2) The application under sub-section (1) may be made within thirty days of furnishing the aforesaid return to the Deputy Commissioner (Appeals) or, as the case may be, to the Commissioner (Appeals).

(3) For the purpose of disposing of an application under sub-section (1), the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may—

(a) conduct such inquiry or call for such books of account, other documents or information which he deems necessary; or

(b) direct the Assessing Officer to conduct such inquiry and furnish the report thereon,

and thereafter decide the question raised in the application and pass such orders thereon as he thinks fit.

(4) The provisions relating to filing of appeals under this Act shall, so far as may be, apply to the making of an application under this section as if such application were an appeal.".

Amendment of section 32.

178. In section 32 of the Gift-tax Act,—

(a) in sub-section (1), for the words "thirty-five days", wherever they occur, the words "thirty days" shall be substituted;

(b) in sub-section (2),—

(i) for the words, brackets and figure "fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1)", the words, brackets and figure "one and one-half per cent. for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid" shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that in respect of any period commencing on or before the 31st day of March, 1989 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent. for every month or part of a month.".

Amendment of section 33.

**179.** In section 33 of the Gift-tax Act,—

(*a*) for the words "and to Gift-tax Officer and Commissioner of Gift-tax instead of to Income-tax Officer and Commissioner of Income-tax", the words "and to the corresponding gift-tax authorities instead of to the income-tax authorities specified therein" shall be substituted;

(*b*) for *Explanation II*, the following *Explanation* shall be substituted, namely:—

"*Explanation II.*—The Chief Commissioner or Commissioner and the Tax Recovery Officer referred to in the Income-tax Act shall be deemed to be the corresponding gift-tax authorities for the purpose of recovery of gift-tax and sums imposed by way of penalty, fine and interest under this Act.".

Amendment of section 33A.

**180.** In section 33A of the Gift-tax Act,—

(*i*) to sub-section (*1*), the following proviso shall be added, namely:—

"Provided that where, by the order aforesaid,—

(*a*) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(*b*) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.";

(*ii*) after sub-section (*4*), the following sub-sections shall be inserted, namely:—

"(*4A*) The provisions of sub-sections (*3*), (*3A*) and (*4*) shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989, or any subsequent assessment year.

(*4B*) (*a*) Where, in pursuance of any order passed under this Act, the refund of any amount becomes due to the assessee he shall, subject to the provisions of this sub-section, be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one and a half per cent. for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

*Explanation.*—For the purposes of this clause, "date of payment of the tax or penalty" means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 31 is paid in excess of such demand.

(*b*) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee, whether wholly or in part, period of the delay so attributable to him shall be excluded

from the period for which interest is payable, and where any question arises as to the period to be excluded, it shall be decided by the Chief Commissioner or Commissioner whose decision thereon shall be final.

(c) Where, as a result of an order under section 16 or section 22 or section 23 or section 24 or section 26 or section 28 or section 34, the amount on which the interest was payable under clause (a) has been increased or reduced, as the case may be, interest shall be increased or reduced accordingly, and, in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 31 and the provisions of this Act shall apply accordingly.

(d) The provisions of this sub-section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years.".

Amendment of section 34.

**181.** In section 34 of the Gift-tax Act, in sub-section (*1*), after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) a gift-tax authority may amend any intimation sent by it under sub-section (*1*) of section 15 or enhance or reduce the amount of refund granted by it under that sub-section.".

Amendment of section 36.

**182.** In section 36 of the Gift-tax Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) If the Director General or Director has reason to suspect that any gifts chargeable to tax under this Act have been concealed, or are likely to be concealed by any person or class of persons within his jurisdiction, then, for the purposes of making any inquiry or investigation relating thereto it shall be competent for him to exercise the powers conferred under sub-section (*1*) on the gift-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other gift-tax authority.";

(*b*) sub-section (*2*) shall be omitted.

Amendment of section 37.

**183.** In section 37 of the Gift-tax Act,—

(*a*) for the words "Where, for the purposes of determining the gift-tax payable by any person, it appears necessary for the Gift-tax Officer to obtain any statement or information from any person,", the words "Where, for the purposes of this Act, it appears necessary for any gift-tax authority to obtain any statement or information from any person or banking company," shall be substituted;

(*b*) for the words "the Gift-tax Officer", in the second and third places where they occur, the words "such gift-tax authority" shall be substituted.

Amendment of section 45.

184. In section 45 of the Gift-tax Act,—

(*a*) for the words "The provisions of this Act shall not apply to gifts made by", the words "No tax shall be levied under this Act in respect of gifts made by" shall be substituted;

(*b*) for clauses (*a*), (*b*), (*c*), (*d*) and (*da*), the following clauses shall be substituted, namely:—

"(*a*) a company in which the public are substantially interested;

(*b*) any company to an Indian company in a scheme of amalgamation;";

(c) for clause (*e*), the following clause shall be substituted, namely:—

"(*e*) any institution or fund, which is eligible for the deduction under section 80F of the Income-tax Act.";

(*d*) for *Explanations 1, 2* and *3*, the following *Explanations* shall be substituted, namely:—

'*Explanation 1.*—For the purposes of clause (*b*), the term "amalgamation" shall have the meaning assigned to it in clause (*1A*) of section 2 of the Income-tax Act.

*Explanation 2.*—For the removal of doubts, it is hereby declared that the exemption admissible under clause (*e*) in relation to gifts made by an institution or fund referred to in that clause shall not be denied merely on either or both of the following grounds, namely:—

(*i*) that, subsequent to the gift, the institution or fund has become ineligible to the deduction under section 80F of the Income-tax Act due to non-compliance with any of the provisions of that section;

(*ii*) that the deduction under section 80F of the Income-tax Act is denied to the institution or fund in relation to any income arising to it from any investment referred to in clause (*h*) of sub-section (4) of that section where the aggregate of the funds invested by it in a concern referred to in the said clause (*h*) does not exceed five per cent. of the capital of that concern.'.

Insertion of new section 47.

185. After section 46A of the Gift-tax Act, the following section shall be inserted with effect from the 1st day of April, 1988, namely:—

Power to remove difficulties.

"47. (*1*) If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.".

Consequential amendments.

186. The following amendments (being amendments of a consequential nature) shall be made in the Gift-tax Act with effect from the 1st day of April, 1989, namely:—

(1) in section 19A,—

(a) in sub-section (4),—

(i) for the words, brackets and figures "a return under sub-section (2) of section 13", the words, brackets and figures "a return under sub-section (1) of section 13" shall be substituted;

(ii) for the words, brackets and figures "as if the notice were a notice issued under sub-section (2) of section 13", the words, brackets and figures "as if the notice were a notice issued under clause (i) of sub-section (4) of section 15" shall be substituted;

(b) in sub-section (6), for the words, brackets and figures "sub-section (2) of section 13", at both the places where they occur, the words, brackets and figures "clause (i) of sub-section (4) of section 15" shall be substituted;

(2) in section 23, in sub-section (1), after the word and figures "section 22", the words, figures and letter "or section 22A" shall be inserted;

(3) in section 34, in sub-section (1), for clauses (b), (c), (d) and (e), the following clauses shall be substituted, namely:—

"(b) the Deputy Director or Deputy Commissioner or Director or Commissioner or Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 17A;

(c) the Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 22 or section 22A;

(d) the Commissioner may amend any order passed by him under section 24;

(e) the Appellate Tribunal may amend any order passed by it under section 23 or section 25.".

## CHAPTER V

### AMENDMENTS TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

Substitution of new authorities.

187. In the Companies (Profits) Surtax Act, 1964 (hereafter in this Chapter referred to as the Surtax Act), save as otherwise expressly provided in this Act, and unless the context otherwise requires, references to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of April, 1988 by references to the 7 of 1964.

authority or authorities specified in the corresponding entry in column (2) of the said Table, and such consequential changes as the rules of grammar may require, shall also be made:

TABLE

| (1) | (2) |
|---|---|
| Commissioner | Chief Commissioner or Commissioner |
| Inspecting Assistant Commissioner | Deputy Commissioner |
| Income-tax Officer | Assessing Officer |

Substitution of new section for section 3.

188. For section 3 of the Surtax Act, the following section shall be substituted, with effect from the 1st day of April, 1988, namely:—

Tax authorities.

"3. (1) The income-tax authorities specified in section 116 of the Income-tax Act shall be the authorities for the purposes of this Act and every such authority shall exercise the powers and perform the functions of a tax authority under this Act in respect of any company, and for this purpose his jurisdiction under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning concurrent jurisdiction) or under any other provision of that Act.

(2) The Board may, from time to time, issue such orders, instructions and directions to other tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(a) so as to require any tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(b) so as to interfere with the discretion of the Commissioner (Appeals) in the exercise of his appellate functions.".

Amendment of section 18.

189. In section 18 of the Surtax Act,—

(a) for the figures, brackets, letter and word "2(43B) and (44)", the figures and brackets "2(44)" shall be substituted;

(b) for the figures and letters "118, 125, 125A, 129, 130, 130A", the figures "116, 117, 118, 119, 120, 129" shall be substituted with effect from the 1st day of April, 1988.

## STATEMENT OF OBJECTS AND REASONS

The Income-tax Act, 1961 had become quite complex due to a series of changes made over a period of twenty years. It has also become essential to increase the cost of evasion for persons trying to evade paying their taxes. In the light of the experience gained in the working of the Act the Government resolved to rewrite the direct tax laws. Accordingly, based on the recommendations of a Committee, a Discussion Paper on Simplification and Rationalisation of Direct Taxes was laid before the Parliament on 14-8-1986. In the light of the response received from Members of Parliament, Economists, Chambers of Commerce and Industry and individual taxpayers, amendments in the Direct Tax Laws have been proposed.

2. The main objectives of the Bill and the directional changes to achieve those objectives are as under:—

(i) to simplify the law and procedures relating to direct taxes in keeping with the policy of reposing trust in the taxpayers so as to encourage voluntary compliance. It is, therefore, proposed to make a total shift from the concept of assessment of income to the concept of determination of additional tax or refund, as the case may be. In view of the proposed amendments, no assessment order will generally be required to be passed once acknowledgment of return of income is issued. However, if a return of income is scrutinised, the process of investigation will be initiated within the same financial year or within a period of six months, from the date of filing the return, whichever is later;

(ii) to rationalise the scheme of taxation of income and to ensure that the income earned during the same period by the same category of taxpayers is subjected to tax at the same rate, it is proposed to charge income-tax uniformly in a financial year in respect of the income of the preceding year ending 31st March which happens to be the accounting year followed by a large majority of taxpayers;

(iii) to ensure, as far as possible, taxation of real income consistent with promoting economic and social objective. It is, therefore, proposed to omit a large number of artificial deductions on the one hand, and the disallowance of business expenditure actually incurred on the other. The existing ceiling on allowance of remuneration paid to the directors and employees of the companies as also the expenses on the bonus are proposed to be revised;

(iv) to increase the cost of avoidance and provide effective deterrence against evasion. It is now proposed to impose a mandatory additional tax up to the extent of 30 per cent. of the concealed income in the event of any concealment of income;

(v) to make the tax law effective by preventing leaking of revenue through instrumentalities of numerous taxable entities. It

is now proposed to build disincentive for formation of trusts and associations of persons only as instruments of tax avoidance, by taxing these entities at the maximum marginal rate while taking care that the expenditure on charitable objects by trusts, etc., are encouraged. Further, the interest of smaller associations of persons has been protected;

(vi) to remove uncertainties in the matter of assessments by cutting down areas of subjective decisions of tax authorities, to ensure uniform treatment of persons similarly placed and to reduce litigation. The existing provisions which give the assessing authorities discretionary powers to levy penalties as well as interest for the same default is now sought to be replaced by a system of mandatory interest to compensate the Government for loss of revenue and also to deter the assessee from repeatedly committing the default; and

(vii) to ensure uniformity to the extent possible in the provisions of the three direct tax laws to pave the way for enactment of a single Direct Taxes Code. The procedural provisions and the provisions dealing with jurisdiction, interest, penalties and prosecutions in the Wealth-tax Act and the Gift-tax Act are proposed to be amended so as to bring them in line with the corresponding provisions in the Income-tax Act.

3. The Notes on clauses explain in detail the provisions of the Bill.

4. The Bill seeks to achieve the above objects.

NEW DELHI;
*The 7th December*, 1987.

NARAYAN DATT TIWARI.

*Notes on clauses*

*Amendments to the Income-tax Act, 1961.*

Clause 2 seeks to substitute or introduce new authorities in the Act consequent upon either the redesignation of these authorities in section 116 or the inclusion of new authorities in that section. This clause will be effective from 1-4-1988.

Clause 3 seeks to amend section 2 of the Act containing the definitions of various terms by omitting, inserting or amending certain definitions.

Sub-clauses (1), (p), (q) and (s) seek to omit the following definitions,—

(i) "Inspecting Assistant Commissioner", consequent upon the redesignation of this authority as Deputy Commissioner....*Clause* (27)

(ii) "Registered firm" and "unregistered firm", consequent upon the new provisions regarding taxation of firms whereby firms are no longer to be assessed as registered or unregistered firms..... *Clauses* (39) *and* (48)

(iii) "Tax Recovery Commissioner", consequent upon the abolition of this authority from the Income-tax Act.....*Clause* (43B)

Sub-clauses, (a), (b), (c), (d), (f), (h), (i) and (n) seek to insert the following definitions,—

(i) "advance tax" a new definition which is only clarificatory.... Clause (1), the existing clauses (1) and (1A) to be renumbered as (1A) and (1B) respectively,

(ii) "Assessing Officer", a new definition of the term to be used in the Act for the Income-tax Officer and the Assistant Commissioner performing the functions of an assesisng officer and also the Deputy Commissioner, if so empowered....*Clause* (7A).

(iii) "Assistant Commissioner", consequent upon the redesignation of "Income-tax Officer Group 'A' ", as assistant Commissioner ....*Clause* (9A).

(iv) "Chief Commissioner", consequent upon the introduction of this new authority in the Act....Clause (15A), the existing clause (15A) to be renumbered as (15B).

(v) "Deputy Commissioner", consequent upon redesignation of "Inspecting Assistant Commissioner" as Deputy Commissioner.... *Clause* (19A).

(vi) "Deputy Commissioner (Appeals)" consequent upon the redesignation of Appellate Assistant Commissioner....*Clause* (19B).

(vii) "domestic company", consequent upon shifting of this definition from section 80B to this section....*Clause* (22A), the existing clause (22A) to be renumbered as....*Clause* (22B).

(viii) "foreign company", consequent upon shifting of this definition from section 80B to this section....*Clause* (23A).

(ix) "maximum marginal rate" consequent upon shifting of this definition from section 164 to this section in a slightly modified form....*Clause* (29C).

Sub-clauses (e), (g), (j), (k), (m), (o) and (r) seek to amend the following definitions,—

(i) "Commissioner", to exclude Additional Commissioner of Income-tax from this definition....*Clause* (16).

(ii) "Director of Inspection", to be substituted by another clause to provide for the definition of "Director General or Director". which would include a Deputy Director or an Assistant Director ....*Clause* (21).

(iii) "income," by making a consequential amendment in sub-clause (iia)....*Clause* (24).

(iv) "Income-tax Officer", by making an amendment of a consequential nature....*Clause* (25).

(v) "Inspector of Income-tax", by making an amendment of a consequential nature....*Clause* (28).

(vi) "rate or rates in force" or "rates in force", to exclude reference of section 80E consequent upon the deletion of that section and to make certain other consequential changes to substitute references to certain sections....*Clause* (37A).

(vii) "Tax Recovery Officer", to provide that it will mean an Income-tax Officer authorised by the Commissioner to exercise the powers of a Tax Recovery Officer....*Clause* (44).

*Clause* 4 seeks to substitute section 3 of the Act relating to previous year by a new section.

Under the existing section 3, each assessee can have a previous year of his choice and also different previous years for separate sources of income. An assessee may also change the previous year with the consent of the Income-tax Officer.

The new section 3 provides for the financial year (year ending 31st March) as the uniform previous year for all the assessees and for all sources of income. Consequently, the provisions regarding change of the previous year will no longer be necessary and do not find a place in the new section.

Sub-section (1) provides that "previous year" means the financial year immediately preceding the assessment year. It also provides that in the case of a newly set up business or profession or a new source of income during the financial year,the previous year shall begin from

the date of setting up or coming into existence of the new business, profession or new source of income and ending with the said financial year.

Sub-section (2) provides that in the case of an assessee who has been having a previous year or years different from the financial year, the previous year relevant to the initial year of change (i.e. the transitional assessment year) will be for a period longer than 12 months.

Sub-section (3), read with Tenth Schedule, provides transitory provisions to avoid hardship where the previous year for the transitional assessment year exceeds a period of 12 months.

*Clause* 5 seeks to amend section 4 of the Act relating to charge of income-tax, consequent upon the levy of additional income-tax in certain cases and also consequent upon the adoption of a uniform previous year for all assessees and for all sources of income.

*Clause* 6 seeks to amend section 10 of the Act relating to income not included in total income by deleting, withdrawing inserting or amending certain clauses of the section containing various exemptions.

Sub-clauses (k) and (l) seek to withdraw the following exemptions:

(i) Income of approved scientific research association....*Clause* (21).

(ii) Income of an association or an institution established for control, supervision, regulation or encouragement of the games of cricket, hockey, football, tennis, etc., as may be specified....*Clause* (23).

(iii) Income of a notified fund or institution established for charitable purposes and income of a notified trust or institution wholly for public religious purposes or wholly for public religious and charitable purposes....*Clause* (23C) (iv) and (v).

The exemptions being withdrawn, as mentioned at serial Nos. (ii), (iii) and (iv) above, will be taken care of in a separate section 80F being inserted to deal with exemption of the income of public charitable and religious trusts or trusts or institutions of national importance, which will include philanthropic institutions or institutions for scientific research or for carrying out rural development programmes or programmes of conservation of natural resources.

Sub-clauses (a) and (m) seek to insert—

(i) a new clause to clarify that a partner of a firm will be exempt from tax on his share in the firm's income. *Explanation* to this clause clarifies that for purposes of this clause share of a partner in a firm shall be computed by dividing the taxable profits of the firm in the same proportion as the profit sharing ratio mentioned in the partnership deed....*Clause* (2A).

(ii) a new clause to exempt the income of a Mutual Fund set up by public sector bank or a public financial institution, as may

be specified by the Central Government, by notification in the Official Gazette, and subject to certain conditions including the condition that at least 90 per cent of the annual income of the said Fund shall be distributed to the unit-holders....*Clause* (23D).

Sub-clauses (b), (c), (d), (e), (f), (g), (h), (i) and (j) seek to amend the provisions granting the following exemptions in the manner indicated below:—

(i) Bonds, receipts from which by way of interest or premium on redemption are intended to be exempt, are intended hereafter to be notified, as are the securities at present. The names of various bonds in clause (4) are consequently being taken out.

Also the provisions of clause (4A), which exempt interest on a Non-Resident (External) Account of an individual, who is a person resident outside India within the meaning of section 2(q) of the Foreign Exchange Regulation Act, 1973, are being simplified and merged with clause (4)....*Clauses* (4) & (4A).

(ii) The exemption in respect of value of leave travel concession and passage money presently available to citizens only is being extended to non-citizens also. It is also being provided that the exemption will be limited to the amount actually spent. The ceiling on the number of journeys for going to home town and also on the amount of exemption per head, is being provided in the rules on the lines of the ceilings in the case of the Government servants....*Clause* (5).

(iii) Gratuity received from private employers is exempt from tax to the extent of the amount calculated at the rate of one-half month's salary for each year of completed service subject to the maximum of 20 months' salary or Rs. 36,000, whichever is less. At present such calculation is to be made on the basis of the average salary of 3 preceding years. The same is being amended to enable calculations on the basis of the average salary of preceding 10 months only.

Also the maximum limit of exemption (Rs. 36,000) is proposed not to be specified in this section, but is to be notified by the Central Government keeping in view the limit applicable to Central Government employees (presently Rs. 50,000). Further, the trird and fourth provisos in this clause, having become superfluous are being omitted ....*Clause* (10).

(iv) Commutation of pension received from private employers is exempt to the extent mentioned in sub-clause (ii) of clause (10A). Proviso to this sub-clause which applies to cases of employees retiring before 19-8-65 has become redundant and is being deleted....*Clause* (10A).

(v) Cash equivalent of leave salary received from private employers is exempt from tax subject to a maximum of six months' salary or Rs. 30,000 whichever is less. This maximum limit of Rs. 30,000 is proposed not to be specified in the section, but is to be

notified by the Central Government keeping in view the limit applicable to Central Government employees. Further, the limit of six months is being raised to eight months and the third and fourth provisos to this clause, having become superfluous, are being deleted ....*Clause* (10AA).

(vi) Compensation received by a workman under the Industrial Disputes Act, 1947 or under any other Act or award or contract of service or otherwise at the time of retirement, is exempt from tax subject to a maximum of the compensation allowable under the Industrial Disputes Act, 1947, or Rs. 50,000, whichever is less. It is proposed that this maximum limit, instead of being mentioned in the section, is to be notified by the Central Government....*Clause* (10B).

(vii) All specific allowances exempt from tax in computing income from salary are proposed to be notified and the existing clause is being substituted by a new clause for this purpose....*Clause* (14).

(viii) All the securities, bonds, saving certificates and deposits, etc., mentioned in sub-clause (i), (ia), (ib), (ii) and (iia) of clause (15), incomes from which are intended to be exempt from tax, are to be notified and their mention in this clause is being taken out.... *Clause* (15).

(ix) Any payments made, whether in cash or in kind, in pursuance of awards or rewards instituted by the Central Government or State Governments or approved by the Central Government are exempt under the provisions of the existing clauses (17A), (17B) and (18). The provisions of these three clauses are being simplified by not mentioning the purposes of the awards or rewards in the clauses and by combining the three clauses into a single clause (17A) ....*Clauses* (17A), (17B) and (18).

*Clause* 7 seeks to omit sections 11, 12, 12A and 13 of the Act relating to exemption of income of charitable and religious trusts and institutions. A separate section 80-F is being inserted to deal with exemption of the income of public charitable and religious trusts, or trusts or institutions of national importance, which will include philanthropic institutions or institutions for scientific research or for carrying out rural development programmes or programmes of conservation of natural resources or afforestation waste land.

*Clause* 9 seeks to amend section 28 of the Act relating to income chargeable under the head "Profits and gains of business or profession" as follows:—

(i) to provide that any interest, salary, bonus, commission or remuneration, by whatever name called, received by a partner from the firm will be taxed under this head.

(ii) to delete *Explanation* 1, which refers to profits from managing agency.

*Clause* 10 seeks to delete the following sections of the Act:—

(i) section 35 relating to expenditure on scientific research, as deduction for payments to approved scientific research associations is to be allowed under the amended section 80G and the in house expenditure is to be allowed under section 37.

(ii) section 35B relating to Export Markets Development Allowance, 35C relating to Agricultural Development Allowance and 35CC relating to Rural Development Allowance, as these incentive provisions are not applicable in respect of expenditure incurred after 28-2-1983, 28-2-1984 and 16-3-1985 respectively.

(iii) sections 35CCA and 35CCB relating to expenditures by way of payments to institutions carrying out rural development programmes or programmes for conservation of natural resources as such expenditures are to be taken care of by the amended section 80G.

*Clause* 11 seeks to amend section 36 of the Act relating to certain deductions that are to be allowed in computing the income under the head "Profits and gains of business and profession".

Sub-clause (*a*) seeks to make the following amendments in various clauses of sub-section (*1*) of this section :—

(i) clause (*ii*) allows deduction of any bonus or commission paid to an employee for services rendered. The two provisos of this clause, which lay down certain ceilings on the bonus to be allowed as a deduction, are being deleted. Simultaneously, bonus payments are being covered by the provisions of section 43B, so that these are allowed on actual payment basis only.

(ii) clause (*vii*), which allows bad debts as a deduction, is being amended to provide that claim for a bad debt will be allowed in the year in which such a bad debt has been actually written off by the assessee.

(iii) clause (*viia*), which allows deduction to scheduled banks in respect of provisions for bad and doubtful debts relating to rural advances, is being amended consequent to:

deletion of clause (*viiia*) referred to below, and deletion of section 11 from the Act, so that definition of "scheduled bank" given therein be incorporated in the present clause itself.

Sub-clause (b) seeks to make the following amendments in various clauses of sub-section (2) of this section, containing provisions regarding allowance of bad debts :—

(i) clause (*i*) is substituted by a new clause consequent upon amendment of clause (*vii*) of sub-section (*1*) relating to allowance of bad debts;

(ii) clause (*iii*) and (*iv*), which provide for allowing deduction for a bad debt in an earlier or later previous year, if the ITO is satisfied that the debt did not become bad in the year in which it was written off and claimed as such by an assessee, having become redundant, are to be withdrawn.

*Clause* 12 seeks to delete section 39 of the Act dealing with sharing of managing agency commission, as the provisions of this section have become redundant consequent upon the abolition of the managing agency system long back.

*Clause* 13 seeks to amend section 40 of the Act relating to certain expenses which are not allowable deductions or which are allowed only subject to certain monetary ceiling. Sub-clause (*i*) makes an amendment in the opening portion of the section consequent upon the deletion of section 39.

Sub-clause (ii) substitutes two new clauses for the existing clause (*b*) of the section, which disallows payment of interest, salary, commission, etc., by the firm to its partners.

The new clause (*b*) provides that in the case of firms interest paid to partners, at the rate to be prescribed, having regard to the maximum rate of interest payable by a Scheduled bank on its deposits, will be treated as allowable deduction. Payments of salary, bonus, commission or remuneration, by whatever name called, made to whole-time working partners for services rendered will also be allowed as a deduction subject to the following limits :—

| | Business firm | Professional firm |
|---|---|---|
| On the first Rs. 50,000 of book profits of the firm . . . . . | 75% | 90% |
| On the next Rs. 50,000 . . . . . | 50% | 65% |
| On the balance of book profits . . . . . | 25% | 40% |

It is also provided that only that payment of salary, etc., to whole-time working partners or interest to partners will be allowed as a deduction, which is authorised by and is in accordance with the terms of the partnership deed. It is further provided that the terms of the partnership deed will not have retrospective effect in this respect.

A new *Explanation* 1 to clause (*b*) gives the meaning of the terms "whole-time working partner", "book profits" and "Scheduled bank" used in this clause. A "whole-time working partner" means a partner of the firm who is in receipt of payments mentioned is this clause from the firm for services rendered to that firm and who is not in receipt of any similar payments from any other person. "Book profits" are defined to mean the profits computed in accordance with the Parts II & III of Schedule VI to the Companies Act, 1956, if and in so far as these provisions had been applicable to a firm, after making certain adjustments, as mentioned in the definition. "Scheduled bank" is defined to have the same meaning as in *Explanation* to clause (*viia*) of sub-section (*1*) of section 36. *Explanations* 2 and 3 are the same as the *Explanations* 2 and 3 in the existing clause.

The new clause (*ba*) provides that any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by

an association of persons or body of individuals to a member will not be allowed as a deduction.

*Explanations* 1 to 3 to the new clause are the same as *Explanations* 1 to 3 in the existing clause (b) with the difference that while the *Explanations* in the existing clause (b) deal with the treatment of interest paid by the firm to its partners and *vice versa*, the *Explanations* in the new clause (*ba*) deal with treatment of interest paid by the association of Persons or Body of individuals to its members or *vice versa*.

Sub-clause (iii) omits clause (c), which imposes a ceiling on remuneration to the directors and certain other persons of a company.

*Clause* 14 seeks to amend section 40A of the Act relating to expenses or payments not deductible in certain circumstances.

Sub-clause (*a*) seeks to amend sub-section (3) of the section. Under the existing provisions, payment of a sum exceeding Rs. 2,500, if made otherwise than by a crossed cheque or crossed bank draft, is not allowed as a deduction. This limit of Rs. 2,500 is being raised to Rs. 10,000.

Sub-clause (*b*) seeks to delete the following sub-sections:—

(*i*) sub-section (5), which lays down monetary ceilings on payment of remuneration, etc., by an assessee to its employees.

(*ii*) Sub-section (6), which lays down monetary ceilings on payment by an assessee to its former employees of fees for services rendered.

*Clause* 15 seeks to amend section 43B of the Act relating to allowability of certain expenses only actual payment.

Sub-clauses (a) and (b) seek to insert a new clause (c) in the section to enlarge its scope by bringing bonus payments within its ambit so that deduction for bonus is allowed only in the year in which it is actually paid.

Sub-clause (c) seeks to amend the first proviso, inserted by the Finance Act, 1987, to make the proviso applicable to the new clause (c) inserted in the section, so that bonus payments will also be allowed if the payment in respect thereof is made before the due date of filing the return of income, and the evidence of such payment is attached to such return of income.

Sub-clause (d) inserts an *Explanation* 2 to the section to clarify that if deduction in respect of any bonus payment referred to in the new clause (c) inserted in the section has already been allowed in the assessment year 1988-89 or any earlier assessment year on due basis, the deduction shall not be allowed again in the year in which the sum is actually paid.

*Clause* 16 seeks to insert a new section 54A in the Income-tax Act relating to relief of tax on capital gains on transfer of property held under trust for charitable or religious purposes or by certain institutions.

Under the proposed sub-section (1) if an assessee transfers any long term capital asset of the nature specified in sub-section (2) giving rise to

capital gains and acquires during the previous year in which the transfer took place or within a period of six months after the close of such previous year another capital asset to be held for the same purposes as those for which the original asset was held, the entire capital gain shall be exempt, if the cost of the new asset is not less than the net consideration received. If the cost of the new asset is less than the net consideration, the exemption shall be granted proportionately on the basis of investment of net consideration for acquiring the new asset.

The proviso to sub-section (1) provides the mode of determination of period of six months in a case where transfer of original asset is by way of compulsory acquisition and the amount of compensation is received after the expiry of the previous year.

Sub-section (2) specifies the type of charitable or religious trusts or institutions, the capital gains arising from the transfer of properties of which is contemplated to be given relief under sub-section (1).

Sub-section (3) provides, that where the capital asset is a property held under trust created before the commencement of this Act, in part only for charitable or religious purposes, then only that fraction of capital gain arising from transfer of such asset which represents the extent to which the income derived from the asset transferred was, prior to such transfer, applicable to charitable or religious purposes shall be exempt.

Clause 17 seeks to amend, sub-section (1) of section 64 of the Act dealing with the circumstances under which the income of the spouse, minor child, etc., is included in the income of the individual.

Under the existing provisions of clauses (i) and (iii) of the sub-section the share income of the spouse or the minor child from the firm is to be clubbed with the income of the other spouse or the parent. The provisions of these clauses have become unnecessary in view of the new proposals for taxation of firms (*See* section 182—189) whereby the shares of partners in the income of the firm are not to be included in the partners' total income.

Sub-clauses (a) and (c), therefore, seek to delete clauses (i) and (iii) of this sub-section.

Under the existing provision of clause (ii) of the sub-section, the income derived by the spouse by way of salary, commission, fees or any other form of remuneration from a concern in which the other spouse has substantial interest is clubbed with the income of the spouse. A proviso to this clause, however, provides that the clause will not apply where the spouse possesses technical or professional qualifications and the income is attributable to the application of his or her technical or professional knowledge or experience.

Sub-clause (b) substitutes a new proviso for the existing proviso to clause (ii) of the sub-section to provide that the provisions of the said clause will not apply only if the income arises to the spouse from a firm carrying on a profession as is referred to in sub-section (1) of section 44AA, and the spouse possesses any technical or professional qualification in the nature of a degree or diploma of a University within the meaning of clause (c) of the *Explanation* below sub-section (2B) of section 32A.

The existing sub-clauses (iv), (v) and (vi) of the sub-section deal with clubbing of the income from assets transferred to the spouse, minor child or son's wife or minor child, with the income of the individual, transferring the assets, while sub-clauses (vii) and (viii) deal in a similar way with the assets transferred to any person or association of persons for the benefit of the spouse or minor child or son's wife or minor child.

Sub-clauses (d) and (e) seek to make amendments of a consequential nature in clauses (iv) and (v) of the sub-section pursuant to the deletion of the clauses (i) and (iii) of the sub-section.

Sub-clause (e) and (f) further seek to omit the words "not being a married daughter", which qualifies the term "minor child" used in clauses (v) and (vii) of the sub-section, as the use of these words is unnecessary.

Sub-clause (g) seeks to substitute a new *Explanation* for the existing *Explanation* 1 below the sub-section. The amendments in the new *Explanation* 1 are only of consequential nature pursuant to the deletion of clauses (i) and (iii) of the sub-section so that the new *Explanation* 1 refers to clause (ii) only, while the original *Explanation* 1 referred to clauses (i), (ii) and (iii).

Sub-clause (h) seeks to omit *Explanations* 1A and 2A below the sub-section, which refer to clauses (i) and (iii) of the sub-section, consequent to the omission of these clauses.

The existing *Explanation* 3 below the sub-section applies to clauses (iv) and (v) of the sub-section only and clarifies that where the assets transferred by an individual to his spouse or his minor child are invested in any business, the income proportionate to the investment out of the transferred assets will be clubbed with the income of the transferor.

Sub-clause (i) seeks to substitute a new *Explanation* for the existing *Explanation* 3. The new *Explanation* applies to clause (vi) of the sub-section also relating to assets transferred by an individual to his son's wife or son's minor child and thus removes a lacuna in the existing provisions.

Further the new *Explanation* 3 excludes the clubbing of the income received from the firm, where the transferred assets are invested by way of contribution of capital as a partner in a firm or for being admitted to the benefit of partnership in a firm. However, the interest received from the firm on such capital contribution is to be clubbed with the income of the transferor.

Clause 18 with effect from 1-4-1989 seeks to substitute a new section for the existing section 67 of the Act dealing with the method of computing a partner's share in the income of the firm.

Since, as per new proposals for taxation of firms (see sections 182—189), a partner's share in the income of the firm is not to be included in his total income, the provisions of the existing section are no longer necessary and the existing section is being deleted.

However, the new section with sub-sections (1) to (3) and an *Explanation* provides for the method of computing a member's share in the income of an association of persons or body of individuals, wherein the shares of the members are determinate in the same manner as provided for in the existing section for computing partner's share in a firm. The provisions of sub-section (4) of the original section, which dealt with the set off or carry forward of share of loss of a partner in a registered firm, do not find place in the new section, as there are no provisions in the Act for set off or carry forward of the share of loss of a member in an Association or Body in his own assessment.

Clause 19 seeks to delete, sections 75, 76 and 77 of the Act dealing with carry forward of losses of registered firms, unregistered firms treated as registered firms or unregistered firms or their partners, consequent upon the new provisions of taxation of firms being introduced whereby firms are no longer to be assessed as registered or unregistered and shares of the partners in the firms are also not to be assessed in their own hands.

Clause 20 seeks to substitute, a new sub-section for the existing sub-section (1) of section 78 relating to carry forward of losses in the case of change in constitution of a firm.

Under the existing provisions of the sub-section, where a change has occurred in the constitution of the firm, the share of loss of the retiring or deceased partner is not allowed to be carried forward to be set off against the income of the firm after the change. This sub-section also prohibits any partner from taking the benefit of any portion of the said loss which is not apportionable to him under section 67.

The new sub-section provides that where a change has occurred in the constitution of the firm, the share of loss of the out-going partners shall not be carried forward to be set off against the income of the new firm. It does not contain the latter part of the original sub-section relating to partners, as the same becomes redundant in view of the new proposals for taxation of firms (*See* sections 182 to 189) whereby the share of a partner in firm's income is not to be taxed in his hands.

Clause 21 seeks to amend section 80A of the Act relating to deductions, mentioned in various sections of Chapter VIA, to be made from the gross total income in computing the total income of an assessee.

Sub-section (3) of the section lays down that where deductions under certain sections are allowed in the cases of the firm, association of persons or body of individuals, the same deductions will not be allowed in the assessments of the partners or members in respect of shares from such firms, association of persons or body of individuals. These provisions will no longer be necessary in the case of a firm and its partners in view of the new proposals for taxation of firms (*See* sections 182—189) whereby the shares of partners in the firm's income are not to be taxed in their hands. Therefore, under the proposed amendment of the sub-section reference to a firm and its partners is to be taken out so that the sub-section applies only to the association of persons and body of individuals and their members.

*Clause* 22 seeks to amend section 80B of the Act, containing definitions of certain terms for the purposes of Chapter VIA. The following clauses of this section are to be deleted:—

(i) clause (2), which defines "domestic company";

(ii) clause (4), which defines "foreign company". Both these definitions are being shifted to section 2.

(iii) clause (6), which defines "income" in relation to a handicapped individual.

(iv) clause (8), which defines "relative". Both these definitions are no longer necessary, as they were needed for the purposes of section 80D, which already stands deleted from the Act.

*Clauses* 23, 26 and 28 seek to omit the following sections of Chapter VI-A of the Act dealing with deductions to be made in computing total income:—

(i) section 80E, providing deduction in respect of payment for securing retirement annuities in cases of partners of registered professional firms, being redundant.

(ii) section 80GGA providing deduction in respect of donations for scientific research, etc. The deduction for such payments is, being allowed under amended section 80G.

(iii) section 80QQ, providing deduction in respect of profits and gains from the business of publication of books, being redundant.

*Clause* 24 seeks to insert a new section 80F in Chapter VIA of the Income-tax Act, providing for a unified scheme for taxation of charitable and religious trusts which will also be applicable to institutions of national importance including those involved in scientific research, rural development and conservation of natural resources. Accordingly, sub-section (21) of section 10 and clauses (iv) and (v) of sub-section (23C) of section 10 and sections 11, 12, 12A, 13, 35, 35CC, 35CCA and 35CCB of the Act have been omitted. Section 80G dealing with donations has been separately enlarged. With the insertion of this new section, the gross total income of a charitable trust or institution will be computed in terms of section 80A of the Act and thereafter two special deductions will be allowed in accordance with the provisions of this section.

Sub-section (1) specifies the categories of assessees to whom the new provisions will apply. Apart from persons who derive income from property held under trust for charitable or religious purposes in India, the new provisions will also apply to the trusts or institutions which are (i) set up for the benefit of Indian citizens abroad; (ii) notified by the Board to be of national importance, and (iii) for promotion of international welfare in which India is interested. This enlarges the provisions of present sub-section (1) of section 11.

Sub-section (1) also specifies two special deductions from the total income of the previous year which is otherwise to be computed in the normal manner. The voluntary contributions received by such trusts, etc., will continue to be taxable on the same pattern as provided in the

present section 12 by virtue of the enlarged definition of 'income' in sub-section (24) of section 2. These deductions are (i) the amount actually spent by a trust or institution in fulfilment of its objects; and (ii) the amount accumulated by it in specified investments provided such investments have been held by it for atleast a period of six months ending on the due date of filing of the return of income. These deductions are provided in lieu of the total exemption hitherto granted to such trusts, etc., and will also take care of accumulation of their income to a larger extent than provided presently under sub-sections (1), (2), (3A) and (5) of section 11 of the Act, while taking away areas of discretion.

Sub-section (2) provides that any trust which does not apply for registration in the prescribed manner will not be eligible for deductions specified in sub-section (1). The sub-section further provides that where the gross total income of a trust exceeds Rs. 50,000 (hitherto Rs. 25,000), its accounts must be audited and the return of income be accompanied by an audit report in the prescribed form. These conditions already exist in the present section 12A of the Act. The sub-section also empowers the Board to impose such other conditions as it thinks fit keeping in view the interests or quantum of the revenue, including the condition that a nominee of the Board will be appointed on the Board of trustees of the trust or the governing body of the institution.

Sub-section (3) specifies the circumstances in which a trust, etc., will not be eligible for deductions under sub-section (1). These are analogous to the existing provisions of sub-section (1) of section 13 of the Act. Where the deduction to a trust or institutions is denied under the circumstances that its income is deemed to have been used for providing any benefit, amenity or perquisite to any interested preson in the trust, the Chief Commissioner or Commissioner is empowered, on an application by the trust or institution, to allow the deletion wholly or to such extent as he may deem fit having regard to the extent of the benefit, amenity or perquisite enjoyed by the interested person.

Sub-section (4) provides for the circumstances in which income of a trust or institution shall be deemed to have been used for providing any benefit, amenity or perquisite to any interested person. Provision of any such benefit or amenity will disentitle the trusts, etc., from the benefit of the two special deductions mentioned in sub-section (1). It also incorporates the existing provisions contained in sub-section (2) of section 13.

Sub-section (5) provides that where a specified investment held by a trust is realised, the amount so realised shall be deemed to be the income of the trust of the previous year in which the investment is realised or converted into cash. This incorporates the principle of present sub-sections (1B) and (3) of section 11.

Sub-section (6) provides that if any income of a trust or institution is of such nature as to attract the provisions of sections 60—63 of the Act, it will not be eligible for deduction under sub-section (1). This incorporates the existing condition in sub-section (1) of section 11.

Sub-section (7) deals with trusts or institutions carrying on or deriving income from business and specifies special conditions which are required to be satisfied by such trusts, etc., for grant of deductions under sub-section (1). These conditions include maintenance of accounts of the

business on cash basis; prohibition of set off and carry forward and set off of business losses; and ineligibility of certain kinds of business and expenditure. This enlarges the area of present sub-sections (4) and (4A) of section 11.

Sub-section (8) empowers the Board to delegate any power or authority, conferred upon it under this section, on an officer not below the rank of Commissioner. The delegation will be subject to such conditions and restrictions as the Board may think fit to impose.

*Explanation* 1 defines certain words and phrases for the purposes of this section, thus incorporating the provisions of sub-sections (3) and (4) of section 13 and *Explanation* 1 to section 13.

*Explanation* 2 saves certian trusts from the purview of the provisions of clause (b) of sub-section (3). This is the counterpart of existing *Explanation* 2 to section 13.

*Explanation* 3 seeks to incorporate the existing *Explanation* 3 to section 13, dealing with persons deemed to have a substantial interest in a concern.

*Clause* 25 seeks to amend section 80G of the Act relating to deduction in respect of donations to certain funds, charitable institutions, etc.

Under the existing provisions of sub-section (1) of the section, the percentage of deductions is 50 per cent. of the aggregate of donations made, except in the following two cases, where the deduction is equal to 100 per cent. of the sums donated:

(i) Prime Minister's National Relief Fund.

(ii) Approved local bodies or organisations for promoting family planning.

The donations in respect of which deduction is to be allowed are mentioned in various clauses and sub-clauses of sub-section (2).

For certain types of donations mentioned in sub-section (2), an upper limit is provided in sub-section (4) beyond which the donations do not qualify for deduction. This upper limit is Rs. 5 lakhs or 10 per cent. of the gross total income, whichever is less.

A new section 80F has been inserted in Chapter VIA (in lieu of the present sections 11 to 13, etc.) to provide deductions in respect of amounts applied or accumulated for charitable or religious purposes. Under clause (d) of sub-section (1) of this section, a trust or institution of national importance, which is approved by the Board and notified in the Official Gazette, also qualifies for such deductions if the income is applied or accumulated for the purposes of the trust. Such trusts or institutions of national importance would include those engaged in carrying out scientific research, rural development programmes or programmes of conservation of natural resources, etc.

It is proposed that donations to trusts or institutions of national importance carrying on activities enumerated above, should also qualify for

100 per cent. deduction. To achieve this objective, the following amendments are proposed to be carried out in section 80G:—

(i) sub-clause (b) introduces two new sub-clauses (iiid) and (iiie) in clause (a) of sub-section (2) of the section to include in the list of eligible donees, a rural development fund set up and notified by the Central Government in this behalf and also trusts or institutions of national importance referred to in clause (d) of sub-section (1) of section 80F which are carrying on the following activities:—

(a) Scientific research;

(b) Rural development programmes;

(c) Programmes for conservation of natural resources or of afforestation of wasteland.

(ii) sub-clause (*a*) amends clause (*i*) of sub-section (1) of the section, dealing with 100 per cent. deduction of the sums donated, to include therein the new sub-clauses (iiid) and (iiie) of clause (a) of sub-section (2) relating to donations to trusts or institutions of national importance mentioned in (i) above so that such donations will qualify for 100 per cent. deduction.

Sub-clause (c) seeks to substitute a new sub-section for the existing sub-section (4) of the section to withdraw the upper limit mentioned therein with reference to the absolute amount of Rs. 5 lakhs. The result will be that most donations mentioned in this sub-section will now be subject to only one upper limit which is 10 per cent. of the gross total income.

Sub-clauses (d) and (e) seek to amend clause (i) of sub-section (5) and *Explanation* 2 of the section consequent upon the deletion of sections 11 to 13 and their substitution by the provisions of a new section 80F and also the deletion of clause (23) of section 10 relating to exemption of the income of sports associations, etc. Further clause (23AA) relating to exemption of the income of Regimental Fund, etc., of the armed forces is also included in clause (i) of sub-section (5) of the section so that donations to such funds will also qualify for deduction equal to 50 per cent. of the sums donated.

*Clause* 27 seeks to amend section 80L of the Act relating to deductions in respect of interest on certain securities, dividends etc., by inserting *clause* (va) in sub-section (1) thereof. The new clause allows deduction of income received in respect of units of a Mutual Fund specified under the newly inserted clause (23D) of section 10.

*Clause* 29 seeks to substitute a new section for the existing section 86 relating to shares of partners in the income of the firm or the shares of members of an association of persons or body of in dividuals in the income of the association or body.

The existing section 86 consists of two clauses (iii) and (v) only. Clause (iii) provides for rebate on the share income of the partner of an unregistered firm in his own assessment, while clause (v) provides for a similar rebate in the case of a member of an association or boy.

Since as per new proposals regarding taxation of firms (*see* sections 182 to 189) the firms are no longer to be assessed as registered or unregistered and partners' shares in the income of the firm are not to be included in their total income, the provisions of the existing clause (iii) of the section have become irrelevant and do not find a place in the new section.

The new section, therefore, deals only with the shares of members of an association of persons or body of individuals in the income of the association or body, and provides that income-tax shall not be payable in respect of such share, although it shall form part of total income of the member.

Proviso to the section lays down that where the association or body is taxed at the maximum marginal rate or any higher rate, the share of the member shall not be included in his total income at all. It is further provided that where no income-tax is chargeable on the total income of the association or body, the share of a member therein shall be chargeable to tax as part of his total income.

*Clause* 30 seeks to substitute new sections for the following existing sections of the Act:—

(*i*) Section 116 relating to clauses of income-tax authorities;

(*ii*) Section 117 relating to appointment of income-tax authorities; and

(*iii*) Section 118 relating to control of income-tax authorities.

The new section 116 includes certain new authorities which are presently functioning and redesignates some of the existing authorities. It also omits the authority "Appellate Assistant Commissioner" from the Act. The income-tax authorities now mentioned in the new section are:

(a) the Central Board of Direct Taxes constituted under the Central Board of Revenue Act, 1963,

(b) Directors General of Income-tax or Chief Commissioners of Income-tax,

(c) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals),

(d) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax, or Deputy Commissioners (Appeals),

(e) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax,

(f) Income-tax Officers,

(g) Tax Recovery Officers,

(h) Inspectors of Income-tax.

The existing section 117 specifies elaborately the appointing authorities for the various authorities to be appointed under the Act. This elaborate description is eliminated in the new section, in view of this matter being covered by other statutory rules.

Sub-section (1) of the new section empowers the Central Government to appoint such persons as it thinks fit to be the income-tax authorities. Sub-section (2) empowers the Central Government to authorise the Board, a Director General, a Chief Commissioner, a Director or a Commissioner to appoint income-tax authorities below the rank of Assistant Commissioner. Sub-section (3) empowers an income-tax authority authorised in this behalf by the Board to appoint such executive or ministerial staff as many be necessary to assist it in the execution of its functions.

The existing section 118 spells out the control over income-tax authorities. It describes in detail as to which income-tax authority will be subordinate to whom. The new section, instead of mentioning the controlling authorities in detail, empowers the Board to issue notification in the Official Gazette directing that any income-tax authority or authorities specified in the notification shall be subordinate to such other income-tax authority or authorities as may be specified in the notification.

*Clause* 31 seeks to amend section 119 of the Act relating to instructions to subordinate authorities. Sub-clause (*a*) seeks to amend clause (b) of sub-section (2) of the section to empower the Board to authorise any income-tax authority other than a Deputy Commissioner (Appeals) or Commissioner (Appeals) to admit a belated application or a claim for any exemption, deduction, refund, etc., instead of only the Commissioner of Income-tax or the Income-tax Officer, as at present.

Sub-clause (*b*) seeks to omit sub-section (3), which enjoins upon the Income-tax Officer to observe and follow instructions issued by his superiors under whom he is posted. The provisions of this sub-section are unnecessary in view of the provisions of the new section 118.

*Clause* 32 seeks to substitute a new section 120 relating to jurisdiction of income-tax authorities.

Under the existing provisions, the jurisdiction of various income-tax authorities are given in separate sections viz., 120, 121, 121A, 122, 123, 124(1) and (2) and 128. In essence all these sections say that the income-tax authorities will perform their functions in the area or cover the persons, etc., assigned to them by the Board or the Commissioner of Income-tax, depending upon the rank of the income-tax authority. Sections 125, 125A, 126, 130 and 130A provide for jurisdiction under special circumstances.

Instead of mentioning the jurisdiction and powers of each income-tax authority separately, it is proposed to combine the provisions of all these sections mentioned in the preceding paragraph in a new section 120. Sub-section (1) provides that income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on or assigned to them by the Board.

Sub-section (2) empowers the Board to delegate the authority to authorise to any income-tax authority below it, so as to enable it to issue orders in writing for the exercise of the powers and performance of the functions by the authorities subordinate to it.

Sub-section (3) provides that the Board or any other income-tax authority authorised by it, while issuing directions referred to in sub-sections (1) and (2), may have regard to any one or more of the following criteria:—

(a) Territorial area;

(b) Persons or classes of persons;

(c) Income or classes of income; and

(d) Cases or classes of cases.

Sub-section (4) empowers the Board to issue general or special orders to:

(a) authorise any Director General or Director to perform such functions of any other income-tax authority, as may be assigned to him by the Board;

(b) empower the Director General or Chief Commissioner or Commissioner to issue orders in writing that the powers and functions assigned to an assessing officer in respect of any specified area or persons or classes of persons or incomes or classes of income or cases or classes of cases, shall be exercised or performed by any Deputy Commissioner.

Sub-section (5) makes provision for conferring concurrent jurisdiction on the assessing officers. It provides that direction and orders referred to in sub-sections (1) and (2) may require, for the proper management of work, two or more assessing officers (whether or not of the same class) to perform functions concurrently. Where assessing officers performing concurrent functions are of different classes, the authority lower in rank among them shall exercise power and perform functions as the higher authority amongst them may direct. Sub-section (6) seeks to empower the Board, notwithstanding anything contained in this section or section 124 to regulate matters concerning jurisdiction for purposes of furnishing of the return of income or the doing of any other thing under the Act by issue of notification in the Official Gadette.

*Clause* 33 seeks to delete sections 121, 121A, 122, 123, 125, 125A, 126, 218, 130 and 130A of the Act dealing with jurisdiction of various income-tax authorities, as the provisions of these sections have been combined in a single section 120.

*Clause* 34 seeks to substitute a new section 124 dealing with the jurisdiction of assessing officers in place of the original section relating to jurisdiction of the Income-tax Officers.

The provisions of sub-sections (1) and (2) of the existing section 124 relating to jurisdiction of Income-tax Officers, having been merged, along with other sections, in the new section 120, do not find place in the new section 124. The provisions of the existing sub-sections (3) to (7), with appropriate amendments, are reproduced in sub-section (1) to (5) of the new section 124. The amendments are:—

(i) whenever there is a disagreement between two or more Directors General or Chief Commissioners or Commissioners regarding

jurisdiction of an assessing officer, the Board or such Director General or Chief Commissioner or Commissioners as may be authorised in this behalf by the Board through a notification, will be competent to decide the issue, instead of only the Board, as at present.

(ii) the existing provisions for questioning the jurisdiction of an Income-tax Officer are that no person shall call in question his jurisdiction—

(a) where a return of income under section 139 has been filed, after the expiry of one month from the date of filing of the return or after the completion of assessment, whichever is earlier;

(b) where no such return has been filed, after the expiry of the time allowed by a notice under section 139 (2) or 148 for making a return.

In view of the proposed new procedure of assessment, where issue of notice under section 139(2) is dispensed with and completion of assessment in all cases is also not necessary (*see* amendment of sections 139 and 143) it is now provided that no person shall be entitled to call in question the jurisdiction of an assessing officer:—

(a) where a return of income under section 139(1) has been filed, after the expiry of one month from the date of service of notice under section 142(1) or 143(2) or service of intimation under section 143(1), or after the completion of assessment, whichever is earlier,

(b) where no such return has been filed after the expiry of the time allowed in a notice under section 142(1) or section 148 for making the return, or the date of hearing specified in a notice issued before passing an order under section 144, whichever is earlier.

*Clause* 35 seeks to substitute a new section for the existing section 127 relating to power of transfer of cases.

Under the existing provisions of this section, the Commissioner or the Board can transfer cases from one or more income-tax authorities to other income-tax authorities. The Commissioner can transfer a case from one officer to another provided both work under his jurisdiction. The Board too has similar power to transfer cases from one officer to another irrespective of the fact that the two officers are working under different Commissioners. Even where the Commissioner agree that the cases can be transferred among their officers, the orders have to be passed by the Board.

The new section incorporates the provisions of the existing section with the following amendments:—

(i) the powers of transfer of cases are given to the Director General, Chief Commissioner or Commissioner instead of only to the Commissioners;

(*ii*) cases can be transferred between the assessing officers working under different Directors General or Chief Commissioners or Commissioners—

(a) if the concerned Directors General or Chief Commissioners or Commissioners agree, by the Directors General or Chief Commissioner or Commissioner from whose jurisdiction the case is to be transferred;

(b) if the concerned Directors General or Chief Commissioners or Commissioners do not agree, by the Board or any such Director General, Chief Commissioner or Commissioner as the Board may, by notification in the Official Gazette, authorise in this behalf.

*Clause* 36 seeks to amend section 131 of the Act relating to power of income-tax authorities regarding discovery, production of evidence, etc. Under the existing provisions, sub-section (1) gives the power of a civil court to an Income-tax Officer, the Appellate Assistant Commissioner, Inspecting Assistant Commissioner, Commissioner (Appeals) and the Commissioner in certain matters like discovery and inspection, enforcing attendance of any person and examining him on oath, etc., in any proceedings before them. Sub-section (1A) extends these powers to an Assistant Director of Inspection, who generally deals with search and seizures under section 132 and enables him to exercise these powers even when no proceedings are pending.

Sub-clause (a) seeks to amend sub-section (1A) of the section to extend similar powers to the Director-General or Director and also to the authorised officer under sub-section (1) of section 132 before he takes search and seizure action mentioned in clauses (i) to (v) of that sub-section.

Sub-clause (b) seeks to omit sub-section (2) of this section relating to imposition of fine for non-compliance with the summons issued under this section, consequent upon the inclusion of this penal provision in section 272A dealing with miscellaneous penalties.

*Clause* 37 seeks to amend section 132 of the Act relating to search and seizure.

Under the existing provisions of sub-section (1) of this section the authorised officer, who is conducting the search, may seize the books of account, documents, money, bullion, jewellery or other valuable articles or things found during the search, if the same are unaccounted for. Sub-section (3) empowers the authorised officer to issue a prohibitory order on a person in control of such documents or valuable articles, etc., directing him not to remove, part with or otherwise deal with them without his permission, if he finds it not practicable to seize them. There is no time limit up to which such a prohibitory order can be inforce. Sub-section (4) empowers the authorised officer to examine on oath any person found to be in possession or control of any books of account valuable articles, etc., during the search. He cannot, however, examine all the persons present in the premises at the time of the search, unless they are in possession or control of the documents or valuables, etc. Sub-section (5) provides that where any money, valuable articles, etc., have been seized, the Income-tax Officer has to pass

a summary order within 120 days of the seizure determining the extent of concealed income, calculate the tax, penalty and interest thereon and appropriate the seized assets against the liability so determined or against any other existing liability of the assessee.

Sub-clause (a) and (b) seek to make amendments of consequential nature in sub-sections (1) and (1A) of the section.

Sub-clause (c) seeks to add an *Explanation* to sub-section (3) to clarify that a prohibitory order under this sub-section does not amount to seizure.

Sub-clause (d) seeks to insert an *Explanation* in sub-section (4) to clarify that examination on oath mentioned therein need not be confined to the things, etc., found during the search but can also be for the purpose of general investigation.

Sub-clause (e) seeks to insert a new sub-section (8A) to provide that a prohibitory order under sub-section (3) will not be operative for a period exceeding 60 days from the date of the order, unless the authorised officer records reasons in writing and obtains the approval of the Commissioner to such extension. It is further provided that the Commissioner shall not approve the extension of the period beyond the expiry of 30 days after the completion of all the proceedings under the Act in respect of the years for which the books of account, documents, money, bullion, jewellery or other valuable articles or things are relevant.

Sub-clause (f) seeks to make an amendment of consequential nature in *Explanation* 1 at the end of the section.

*Clause* 38 seeks to make an amendment of consequential nature in section 132A of the Act relating to power to requisition books of account, etc., by substituting reference to "Income-tax Officer" with reference to "Assistant Commissioner or Income-tax Officer".

*Clause* 39 seeks to amend section 133 relating to power of the income-tax authorities to call for information.

Sub-clause (a) seeks to amend clause (4) relating to furnishing of a statement of the names and addresses of all the persons to whom the assessee has paid in any year rent, interest, commission, etc., exceeding Rs. 400. This limit is proposed to be raised to Rs. 1,000 and the Board is to be empowered to raise the monetary limit further through rules.

Sub-clause (b) seeks to insert a proviso at the end of the section to provide that the Director-General, Chief Commissioner, the Director and the Commissioner can also call for the information from any person (including a banking company) referred to in clause (6) of the section, which at present can be called for by the Income-tax Officer, the Inspecting Assistant Commissioner, Appellate Assistant Commissioner or Commissioner (Appeals) only.

*Clause* 40 seeks to amend section 133A relating to power of survey of an income-tax authority. The amendment is made in clause (a) of the *Explanation* to this section to provide that instead of only the Income-tax Officer, as at present, any income-tax authority mentioned in this section (which means an Assistant Commissioner, an Assistant Director or an Income-tax Officer) can authorise Income-tax Inspectors to conduct survey.

*Clause* 41 seeks to amend section 138 of the Act relating to disclosure of information in respect of the assessees.

Under the existing provisions, clause (a) of sub-section (1) of the section provides that the Board or any income-tax authority specified by the Board may disclose information to other Government agencies and to the authorities under the Foreign Exchange Regulation Act about any assessee in respect of any assessment made.

*Clause* (b) of sub-section (1) of this section confers powers on the Commissioner to disclose information to any person, who makes an application to him, in case of any assessee and in respect of any assessment made, if he is satisfied that it is in public interest to do so.

Sub-clause (i) seeks to amend clause (a) of sub-section (1) of the section by removing the condition that the information to be passed on to the other Government department must relate to an assessee and to a completed assessment. Instead, it is provided that any information received or obtained by any income-tax authority in the performance of his functions under the Act may be disclosed.

Sub-clause (ii) seeks to amend clause (b) of sub-section (1) so as to empower the Commissioner to disclose information relating to any assessee received or obtained by any income-tax authority in the performance of his functions under the Act, whether an assessment has been completed or not.

*Clause* 42 seeks to amend section 139 relating to filing of return of income.

Sub-clause (a) seeks to substitute a new sub-section for the existing sub-section (1) which prescribes different time limits for filing of the return of income by assessees having income from business and by those having income from sources other than business. The existing dates are either 30th June or 31st July. The new sub-section staggers further the dates for filing the returns by different classes of assessees. The due dates now provided are as under:—

| | |
|---|---|
| (1) Where the assessee is a company | By 31st December |
| (2) Where the assessee is a person other than a company— | |
| (i) who is required to get his accounts audited under the Income-tax Act or any other law, or in the case of a co-operative society. | By 31st October |
| (ii) Deriving income from business or profession, who does not fall under item (i) above. | By 31st August |
| (iii) In any other case. | By 30th June. |

Proviso to the existing sub-section (1), which allows discretion to the Income-tax Officer, on an application made by the assessee, to extend the date for filing the return of income, does not find place in the new sub-section. Consequently the Income-tax Officer will not have any power to extend the dates of filing the returns, so that the dates mentioned above are mandatory.

Sub-clause (b) seeks to omit sub-section (2) of the section dealing with the issue of a notice by the Income-tax Officer calling for the return of income.

Sub-clause (c) makes amendments of consequential nature in sub-section (3) relating to furnishing of loss return by the assessee. These amendments are pursuant to the deletion of sub-section (2) of the section and the provision of staggered dates for filing the returns of income in the new sub-section (1), with the result that a loss return can also be filed by the four due dates mentioned therein, depending upon the category in which the case falls.

Sub-clause (d) seeks to substitute a new sub-section for the existing sub-sections (4) and (4A).

Under the existing sub-section (4) a return not filed by the due date can still be filed within two years from the end of the relevant assessment year, if the assessment has not been completed. The new sub-section provides that such a belated return can be filed within one year from the end of the relevant assessment year. A proviso to the sub-section clarifies that in case the return relates to assessment year 1987-88 or any earlier year, the reference to one year shall be construed as reference to two years from the end of the relevant assessment year.

The existing sub-section (4A) relates to filing of return by trusts or institutions for charitable or religious purposes, whose income is exempt under the provisions of sections 11 and 12. The new section incorporates amendments consequent upon the substitution of the provisions of sections 11 to 13 by a new section 80F. Sub-clause (e) seeks to substitute a new sub-section for the existing sub-section (5) of the section relating to filing of revised return. The new sub-section provides that a revised return can also be filed within one year from the end of the relevant assessment year instead of two years at present. A proviso to sub-section clarifies that in case of a return relating to assessment year 1988-89 or any earlier year, the reference to one year shall be construed as reference to two yeas fom the end of the relevant assessment year.

Sub-clause (f) seeks to make amendments of consequential nature in sub-sections (6) and (6A) pursuant to the deletion of sub-section (2) of the section.

Sub-clause (g) seeks to omit sub-section (7) of the section, as its provisions have become redundant consequent upon the deletion of sub-section (2) of the section.

Sub-clause (h) seeks to insert clause (c) in sub-section (8) of the section dealing with charge of interest for late filing of return. This is a terminal clause and provides that provisions of the sub-section shall apply only in respect of assessment year 1988-89 or earlier assessment

years. Thereafter the charge of interest for late filing of return is to be covered by the mandatory interest being provided in Chapter XVII.

Sub-clause (i) seeks to make amendments in proviso to sub-section (10) which are consequent to the amendments made in sub-section (3) of the section relating to returns of losses and in sub-section (4A) of the section relating to returns furnished by charitable or religious trusts, etc.

*Clause* 43 seeks to amend section 139A of the Act relating to the permanent account numbers as follows:—

(i) Reference in sub-section (1) and (2) of the section to "any accounting year" is substituted by a reference to "any previous year".

(ii) The Board is also empowered to prescribe categories of documents on which the permanent account number is to be given.

(iii) The definition of the term "accounting year" given in clause (a) of the *Explanation* in the section is omitted.

*Clause* 44 seeks to amend section 140 which specifies the persons by whom the return of income is to be signed and verified.

Under the existing provisions of clause (a) of the section, the return of income, in the case of an individual, has to be signed by the individual himself unless he is absent from India or is mentally incapacitated from attending to his affairs.

Sub-clause (i) seeks to substitute a new clause for the existing clause (a) of the section to extend this facility to cases where for any other reason it is not possible for the individual to sign the return. In such a case the return may be signed by any person duly authorised by such individual in this behalf. The power-of-attorney from the individual is to be attached with the return.

Under the existing provisions of clause (c) of the section, the return of income, in the case of a company, can normally be signed and verified by the Managing Director or any director of the company.

Sub-clause (ii) seeks to add a proviso to this clause to provide that in the case of a non-resident company, return can be signed by a person holding valid power-of-attorney which is to be attached with the return. A further proviso is added to the clause to provide that—

(i) where the company is being wound up, the liquidator of the company under liquidation shall sign and verify the return; and

(ii) where the management of the company has been taken over by the Central or State Government, the principal officer shall sign and verify the return.

Sub-clause (iii) seeks to insert a new clause (dd) in the section to provide that the chief executive officer of a political party referred to in sub-section (4B) of section 139 shall be the person competent to sign and verify the return of such a political party.

*Clause* 45 seeks to amend section 140A relating to payment of self-assessment tax.

Under the existing provisions of sub-section (1) of the section the assessee is required to pay tax on the basis of return after taking into account taxes already paid, at the time of filing the return.

Sub-clause (a) seeks to amend the sub-section to make it mandatory for a person also to pay interest payable up to the date of filing the return along with self-assessment tax. The interest is to be paid for non-payment or short payment of advance tax, deferment of payment of advance tax and late filing of return.

An *Explanation* is inserted to clarify that where the assessee pays only part of the amount due at the time of filing the return, such payment will first be adjusted towards interest, and balance, if any, will be adjusted towards self-assessment tax.

Sub-clause (b) seeks to substitute a new sub-section (3) to provide that if any assessee has not paid the self-assessment tax and interest in full before filing the return, he shall be deemed to be an assessee in default.

The existing sub-section (3) of the section which provides for levy of penalty for non-payment of self-assessment tax, is being omitted.

*Clauses* 46, 51 and 53, seeks to omit the following sections of the Act:

(1) Section 141A relating to provisional assessment for refund, consequent upon the new scheme of assessment (*see* amendment of section 143).

(2) Section 144B dealing with reference to Inspecting Assistant Commissioner in certain cases, as its provisions are already withdrawn after 30-9-1984.

(3) Section 146 relating to reopening of a best judgment assessment at the instance of the assessee, as this provision has already ceased to be in force after 30-9-1984.

*Clause* 47 seeks to amend section 142 of the Act relating to enquiry before assessment.

Sub-clause (a) seeks to amend sub-section (1) of the section to exclude reference to sub-section (2) of section 139, consequent upon the deletion of that section, so that notice under this section can be issued if the assessee has not filed return of income by the due date under sub-section (1) of section 139.

Sub-clause (b) seeks to insert a new clause in sub-section (1), which provides for power to call for return of income, where it has not been filed voluntarily before the end of the relevant assessment year.

*Clause* 48 seeks to substitute a new section for the existing section **143** relating to procedure for assessment.

Under the existing provisions of the section, after a return of income has been filed, the Income-tax Officer may make an assessment under sub-section (1) without requiring the presence of the assessee or production by him of any evidence in support of the return. Where the assessee objects to such an assessment or where the Income-tax Officer is of the opinion that the assessment so made is incorrect or incomplete, or in a case where the Income-tax Officer does not complete the assessment under sub-section (1), but wants to make an enquiry, a notice under sub-section (2) may be issued to the assess requiring him to produce evidence in support of his return. After considering the material and evidence produced by the assessee and after making necessary enquiries, the Income-tax Officer makes the assessment under sub-section (3) of the section.

This section is proposed to be completely recast to provide for a new scheme of assessment wherein the requirement of passing an assessment order in all cases where returns are filed is dispensed with.

*Clause* (a) of sub-section (1) of the new section provides that where a return has been filed under section 139 or under sub-section (1) of section 142—

(i) if any tax or interest is found due on the basis of such return,an intimation shall be sent to the assessee specifying the sum so payable and such intimation shall be deemed to be a notice of demand issued under section 156; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assess.

A proviso to the aforesaid clause allows department to make certain adjustments in the returned income or loss.

Clause (b) of sub-section (1) of the new section provides that where as a result of any of the appellate, revisionary or settlement order mentioned in the clause relating to any earlier assessment year and passed subsequent to the filing of the return referred to in clause (ii), there is any variation in the carry forward loss deduction, etc., claimed in the return, then,—

(i) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and

(ii) if any refund is due, it shall be granted to the assessee. However, an intimation for any tax or interest due under this clause shall not be sent after the expiry of four years from the end of the financial year in which any such order was passed.

Sub-section (2) of the new section provides that when the assessing officer considers it necessary or expedient to verify the correctness or completeness of the return to ensure that the income has not been understated or the loss declared is not excessive, or the tax has not been underpaid, he shall serve on the assessee a notice either to attend his office or to produce on a date specified any evidence on which the assessee may rely in support of the return.

A proviso to the sub-section provides that such a notice can be served on the assessee only during the financial year in which the return is filed or within six months from the date of filing the return, whichever is later.

Sub-section (3) provides that after hearing such evidence as the assessee may produce in response to notice under sub-section (2) and such other evidence as the assessing officer may require on specified points and after taking into account all relevant material which the assessing officer has gatehered, he shall pass an assessment order in writing determining the total income or loss of the assessee and the sum payable by him on the basis of such assessment order.

*Clause* 49 seeks to amend section 144 of the Act relating to best judgment assessment made *ex parte*.

Sub-clause (a) seeks to amend clause (a) of the section consequent upon deletion of sub-section (2) of section 139, to provide that a best judgment assessment can be made on assessee's failure to file a return of income under sub-section (1) of section 139.

Sub-clause (b) seeks to amend the section to provide that a best judgment assessment shall be made only after giving the assessee an opportunity of being heard.

Sub-clause (c) seeks to delete the words "or refundable to the assessee" so that a refund may not be granted under this section.

Sub-clause (d) seeks to insert two provisos in the section to provide that such opportunity shall be given by issue of a notice to the assessee to show cause why the assessment should not be completed to the best of judgement. It is further provided that such an opportunity will not be necessary where a notice under sub-section (1) of section 142 has already been issued.

*Clause* 50 seeks to amend section 144A of the Act relating to the power of the Inspecting Assistant Commissioner to issue directions in certain cases, by deleting sub-section (2) of the section, consequent upon the deletion of sub-section (3) of section 119 referred to in this sub-section.

*Clause* 52 seeks to amend section 145 of the Act relating to method of accounting to be employed in respect of income under the head "profits and gains of business of profession" or "income from other sources".

Under the proposed amendment a second proviso is being inserted in sub-section (1) of the section to provide for taxation of any income by way of interest on securities on accrual basis in a case where no method of accounting is regularly employed by the assessee.

*Clause* 54 seeks to substitute new sections for the existing sections 147 and 148 relating to income escaping assessment and issue of notice on such escapement of income.

*Clause* (a) of the existing section empowers the Income-tax Officer to assess or re-assess the income escaping assessment, if he has reason to believe that income has escaped assessment and such escapement

has occurred on account of either assessee's omission or failure to file a return of income or failure to disclose fully and truly all material facts necessary for his assessment for that year. Clause (b) empowers the Income-tax officer to reopen an assessment, notwithstanding the fact that there is no omission or failure, as mentioned in clause (a) on the part of the assessee, if he has, in consequence of information in his possession, reason to believe that income chargeable to tax has escaped assessment.

Under the proposed amendment, separate provisions contained in the existing clauses (a) and (b) of the section are to be simplified and merged into a single provision enabling the assessing officer to assess or re-assess income which has escaped assessment for any assessment year, after recording reasons for doing so. The existing requirements of having "reason to believe" or "information in possession", are dispensed with. It is further provided in the new section that once an assessment is reopened, any other income which has escaped assessment and which comes to the notice of the assessing officer subsequently in the course of the proceeding under this section, can also be included in the assessment.

A proviso to the new sub-section provides that if an assessment has been made for the relevant assessment year under sub-section (3) of section 143 or this section, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless the income has escaped assessment due to the failure on the part of the assessee to file a return under section 139 or 142(1) or 148 or to disclose fully and truly all material facts necessary for his assessment.

*Explanation* 1 to the new section, which clarifies the meaning of the term "disclosure", is the same as *Explanation* 2 in the existing section.

*Explanation* 2 to the new section clarifies that the following shall also be deemed to be cases of income escaping assessment:—

(i) Where no return of income has been furnished by an assessee, although his total income is above the taxable limit;

(ii) Where a return of income has been furnished, but no assessment has been made, and the assessee is found to have understated his income or claimed excessive loss, deduction, etc., in the return; and

(iii) Where an assessment has been made, but income chargeable to tax has been underassessed or assessed at too low a rate or any excessive loss or relief or depreciation allowance or any other allowance under the Act has been allowed.

The existing provisions of sub-section (1) of section 148 provide that a notice issued under this section shall tentamount to a notice issued under sub-section (2) of section 139. The existing sub-section (2) provides that before issuing a notice under this section, the Income-Tax Officer will record his reasons for doing so.

In the new section 148, reference to sub-section (2) of section 139 is to be removed as that sub-section is being deleted. Sub-section (2) of the section is to be deleted, as the requirement of recording reasons is incorporated in section 147 itself. The new section 148, therefore, provides that before making the assessment, reassessment or recomputation under section 147, the assessing officer shall serve on the assessee, a notice requiring him to furnish the return of income within such period, not being less than 30 days, as may be specified in the notice.

*Clause* 55 seeks to amend section 149 of the Act relating to time limit for issue of notice under section 148.

The existing provisions of sub-section (1) of the section lays down time limits depending upon whether the case falls under clause (a) or clause (b) of the existing section 147. Thus no notice for reopening an assessment under section 148 is to be issued in a case falling under clause (b) after four years and in a case falling under clause (a) after eight years from the end of the relevant assessment year. In a case falling under clause (a), where the income which has escaped assessment amounts to Rs. 50,000 or more in that year, the case can be reopened up to 16 years.

The existing provisions of sub-section (1) of the section are being substantially changed in view of the new procedure of assessment (*see* notes on amendment of section 143), and in the proposed amendment the time limits are to depend upon whether a case has been subject to scrutiny (by way of an assessment under section 143(3) or section 147) or not and also the amount of income which has escaped assessment. The new provisions in this respect are indicated in the following chart: —

| | Up to four years from the end of the relevant Assessment Year | Beyond four years but up to seven years from the end of the relevant Assessment Year | Beyond seven years but up to ten years from the end of the relevant Assessment Year |
|---|---|---|---|
| In cases subjected to scrutiny by way of assessment under section 143(3) or 147. | If the escaped income is less than 50,000 | If the escaped income is Rs. 50,000 or more, but less than Rs. 1 lakh | If the escaped income is Rs. 1,00,000 or more. |
| In other cases. | If the escaped income is less than 25,000 | If the escaped income is Rs. 25,000 or more, but less than Rs. 50,000 | If the escaped income is Rs. 50,000 or more. |

An *Explanation* below the sub-section clarifies that for the purposes of this sub-section income escaping assessment shall have the same meaning as *Explanation* 2 of section 147.

*Clause* 56 seeks to amend section 150 containing provisions for issue of a notice under section 148 without time limit in cases where assessment, reassessment or recomputation is in pursuance of an order of appeal, reference or revision under this Act.

It is proposed to amend sub-section (1) of the section to empower the assessing officer to issue a notice under section 148 at any time to give effect to any finding or direction contained in an order passed by a court in any proceedings, which need not necessary be under the Income-tax Act.

*Clause* 57 seeks to substitute a new section for the existing section 151 relating to sanctioning authorities for issue of notice under section 148.

Under the existing provisions of this section, if notice under section 148 is to be issued after the expiry of four years from the end of the relevant assessment year, sanction of the Commissioner is necessary, and after the expiry of 8 years from the end of the relevant assessment year, sanction of the Board is necessary.

In the proposed new section, the issuing or sanctioning authorities will depend upon whether the case has been subject to scrutiny by way of assessment under section 143(3) or 147 or not.

Sub-section (1) of the new section provides that where an assessment under sub-section (3) of section 143 or section 147 has been made for an assessment year, notice under section 148 can be issued for that year only by an Assistant Commissioner or a Deputy Commissioner.

A proviso to this sub-section provides that after the expiry of 4 years from the end of the relevant assessment year, notice under section 148 can be issued only with the prior approval of the Chief Commissioner or the Commissioner.

Sub-section (2) of the new section provides that in a case other than a case falling under sub-section (1), notice under section 148 can be issued after the expiry of 4 years from the end of the relevant assessment year only by a Deputy Commissioner or with the approval of the Deputy Commissioner.

*Clause* 58 seeks to make an amendment of consequential nature in section 152 containing certain provisions regarding assessment of escaped income, pursuant to the merger of clauses (a) and (b) of section 147.

*Clause* 59 seeks to amend section 153 of the Act relating to the time limits for completion of assessment and reassessment.

The existing sub-section (1) of the section, dealing with completion of assessment under section 143 or 144, consists of clauses (a) to (d), with clause (a) having three sub-clauses (i) to (iii). All these clauses except sub-clause (iii) of clause (a) are to be deleted for the reasons indicated below:—

(1) Provisions of sub-clauses (i) and (ii) of clause (a) relating to assessment years 1967-68 and 1968-69, which were transitory provisions at the time of their introduction by the Finance Act, 1968, have become redundant.

(2) Provisions of clause (b), which provides eight year time limit for completion of assessments involving concealment of income being impractical and not actually used.

(3) Provisions of clause (c) having become redundant in view of the curtailed time of one year from the end of the relevant assessment year allowed for filing returns of income under sub-sections (4) and (5) of section 139.

(4) Provisions of clause (d) having become redundant in view of the new procedure of assessment.

Therefore, sub-clause (a) seeks to substitute a new sub-section (1) in the section which excludes the provisions of all the above clauses and sub-clauses. The new sub-section (1) is thus much shorter and provides that an assessment order under section 143 or 144 shall be made within two years from the end of the assessment year in which the income was first assessable.

The existing sub-section of the section dealing with completion of assessment, reassessment or recomputation under section 147, has two clauses (a) and (b) providing different time limits depending upon whether the case falls under clause (a) or clause (b) of section 147. Consequent upon merger of clauses (a) and (b) of section 147 into a single section, sub-clause (b) seeks to amend sub-section (2) of section 153 by merging clauses (a) and (b) of the sub-section and providing a uniform time limit of two years from the end of the financial year in which the notice under section 148 was served.

A proviso to sub-section (2) makes an exception in cases where notice under section 148 has been served on or before 31-3-1987. In such cases the assessment, reassessment or recomputation can be made by 31-3-1990. This is by way of a transitory provision to tide over the difficulties during the transitional period on switching over from the present four year limit to the new two year limit.

Sub-clause (c) seeks to delete clause (iv) of *Explanation* 1 to the section, which deals with time limit in a case referred to the Inspecting Assistant Commissioner under section 144B, as that section itself is being deleted.

*Clause* 60 seeks to amend section 154 of the Act relating to rectification of mistake apparent from record in any order passed by an income-tax authority.

The amendment is made by substituting a new sub-section (1) in the section, which also empowers an income-tax authority to amend any intimation sent by it or enhance or reduce the amount of refund granted by it under sub-section (1) of section 143.

*Clause* 61 seeks to amend section 155 of the Act relating to amendment of orders.

Sub-clause (a) seeks to amend sub-section (1) of the section, dealing with rectifications of a partner's share in firm's income, to withdraw its provisions after the assessment year 1989-90, as the provisions of the sub-section would become redundant consequent upon the new provisions of taxation of firms as a unit (*see* amendment of sections 182 to 189).

Sub-clause (b) seeks to omit the following sub-sections:—

(1) Sub-section (3), relating to recomputation of income consequent to tax payable by way of Excess Profits Tax or Business Profits Tax, which ceased to be levied long back, and has become redundant.

(2) Sub-section (13), dealing with amendment of an assessment order by allowing the provision made for gratuity which was deposited in an approved fund subsequent to the passing of an assessment order, which has become redundant after 31st March, 1981.

Sub-clause (c) seeks to omit the following sub-sections with effect from 1-4-1992:—

(1) Sub-section (5B), which deals with withdrawal of deduction for expenditure on scientific research originally allowed under sub-section (2B) of section 35 and has become redundant in view of the proposed omission of section 35.

(2) Sub-section (6), which deals with allowability of a bad debt in an year earlier than the year of write off and has become redundant in view of the proposal to allow bad debt in the year of write off. (*See* amendment of section 36).

(3) Sub-sections (7A), (8A), (9A), (10) (b) and (10B) having become redundant in view of the amendments to sections 54, 54B. 54D and 54E made by the Finance Act, 1987.

(4) Sub-sections (8), (9), (10) (a) and (10C) having become redundant in view of the new scheme of investment of capital gains introduced by the Finance Act, 1987.

*Clause* 62 seeks to amend section 158 of the Act dealing with intimation of assessment of firm and apportionment of its income among the partners by withdrawing the provisions of the section after the assessment year 1989-90, as the provisions of the section would become redundant in view of the proposed scheme for taxation of firms, whereby partners' shares in the income of the firm are not to be assessed in their hands.

*Clause* 63 seeks to insert a new Chapter XIVB containing section 158B relating to levy of additional income-tax in certain cases.

Sub-section (1) of the section provides that on completion of a regular assessment under section 143 or 144, apart from the sum determined as payable on the basis of such assessment, an additional income-tax at the rate of 30 per cent. of the difference between the assessed income and the returned income will be levied by the Income-tax Officer.

Sub-section (2), through clauses (a) to (d), clarifies as to what will constitute returned income for the purposes of levy of additional income-tax in different circumstances and how the additional income-tax will be levied where the returned income is a loss. The provisions in brief are:—

(i) Clause (a) provides that where there are two or more returns of income for the same assessment year, the income shown in the return filed last before the service of a notice of hearing under sub-section (2) of section 143, shall be treated as the returned income;

(ii) Clause (b) provides that where a best judgment assessment is completed under section 144 for assessee's failure to file a return of income, the returned income will be taken at 'nil' or such higher total income in respect of which tax by way of advance tax, deduction of tax at source and otherwise has been paid.

(iii) Clause (c) makes similar provision, as in clause (b), in cases where the return of income is field under section 148.

(iv) Clause (d) provides that where the returned income is a loss, additional income-tax will be levied on additions made, which reduce the loss or convert it into income.

Sub-section (3) provides that where as a result of an order under sections 147, 154, 155, 250, 254, 260, 262, 263 or 264, or an order of settlement passed under sub-section (4) of section 245D, the amount on which the additional income-tax is payable is increased or reduced, the additional inome-tax shall also be increased or decreased accordingly.

Sub-section (4) gives discretion to the Chief Commissioner or the Commissioner, whether on his own motion, or otherwise, to waive or reduce the amount of additional income-tax payable if he is satisfied that the difference between the returned income and the assessed income is due to bonafide difference of opinion and all the facts relating to and material for computation of the assessed income or loss had been disclosed by the assessee.

A proviso to the sub-section provides:—

(1) that where an appeal against the assessment order has been filed by the assessee before the Deputy Commissioner (Appeals) or Commissioner (Appeal), the petition for waiver or reduction of additional income-tax can be filed only after the decision on such appeal,

(2) that the petition for waiver or reduction of additional income-tax shall be accompanied by a fee of Rupees one hundred.

Sub-section (5) provides that where in the course of a search under section 132, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing and the assessee claims that the assets referred to above have been acquired by him by utilising his income:—

(a) for any previous year which has ended before the date of search but return of income for such year has not been furnished before the said date, or where such return has been furnished before the said date, such income has not been declared therein, or

(b) for any previous year which is to end on or after the date of the search,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of search, such income shall not be treated as forming part of his returned income for the purposes of liability of the additional income-tax.

The aforesaid income will, however, be treated as forming part of the returned income in the following situations:—

(i) If such income is, or the transactions resulting in such income are recorded:

(A)—in a case falling under clause (a), before the date of search, and

(B)—in a case falling under clause (b) on or before the date of search,

in the books of accounts maintained by the assessee, or such income is otherwise disclosed to the Commissioner before the said date.

(ii) The assessee in the course of search makes a statement under sub-section (4) of section 132 that the assets found have been acquired out of his income which has not been disclosed so far in his return of income to be furnished before the expiry of the time specified in sub-section (1) of section 139 and explains the source of such income and pays the tax together with interest, if any, in respect of such income.

Sub-section (6) clarifies that provisions regarding levy of interest under sub-section (1) of section 234A and under sub-section (2) of section 234B for defaults in furnishing the return of income or in payment of advance tax, shall not be applicable to the additional income-tax.

*Clause* 64 seeks to amend section 164 of the Act relating to the charge of tax where shares of beneficiaries are unknown.

Sub-clause (a) seeks to make amendments of consequential nature in sub-section (1) of this section and in the first proviso to the sub-section.

Sub-clause (b) seeks to delete the following:—

(1) Sub-sections (2) and (3) of this section which relate to taxation of trusts for charitable or religious purposes, either wholly or in part, as these will be covered by new section 80-F proposed to be inserted to deal with the incomes of public charitable or religious trusts.

(2) *Explanation* 2 to the section, which gives the meaning of the term "maximum marginal rate" consequent upon the shifting of this definition in a slightly modified form to section 2.

*Clause* 65 seeks to amend section 164A of the Act relating to charge of tax in the case of oral trusts by deleting clause (i) of the *Explanation* to this section, consequent upon the shifting of the definition of "maximum marginal rate" to section 2.

*Clauses* 66, 67, 68, 69, 70, 71 and 72 seek to insert new sections, delete some of the existing ones or amend various existing sections of the Act (section 167A of Chapter XV and sections 182—189 of Chapter XVI) to introduce a new system of taxation of firms.

Under the existing provisions regarding taxation of firms, the Act makes a distinction between a registered firm and an unregistered firm. There is an elaborate procedure to grant registration to the firms or to cancel the registration under certain circumstances (sections 184—189). A registered firm is taxed at rates lower than the rates applicable to individuals and in addition, shares of partners in the income of the firm are again included in their total incomes and taxed in their hands (section 182). An unregistered firm is taxed on its total income at the rates applicable to individuals. In addition, shares of partners in the income of the firm are included in their total incomes for rate purposes only [sections 183 and 86(iii)].

In the proposed new scheme of taxation of firms, the existing procedure of granting registration to the firms is to be dispensed with. However, it will be obligatory for the firm to file a certified copy of the Instrument of Partnership along with the first return of income. Thus the distinction between a registered firm and an unregistered firm will be removed and all firms will be taxed at the maximum marginal rate. However, payments by way of salary, etc., made to whole-time working partners and interest to partners, which are not at present allowed as a deduction under the provisions of section 40(b), will be treated as allowable deduction subject to certain ceilings. [*See* amendment of section 40(b)].

With the taxation of the firms directly at the maximum marginal rate, the shares of the partners in the income of the firm will not be included in their total income. [*See* clause (2A) of section 10]. Also separate rate schedules provided for taxation of firms in Sub-Paragraphs I and II of Faragraph C of Parts I and III of the First Schedule to the Finance Act will be omitted in due course.

*Clause* 66 seeks to change the sub-heading "*DD—Association of persons—special cases*" of Chapter XV of the Act to "*DD—Firms, association of persons and body of individuals*". It further deletes the existing section 167A under the sub-heading relating to charge of tax where shares of members of an association of persons are unknown, and in its place introduces three new sections 167A, 167B and 167C. The new section 167A provides that in the case of a firm, tax shall be charged at the maximum marginal rate.

*Clause* 67 seeks to omit the sub-heading "*A—Assessment of firms*" and the following sections of the Act:—

(i) Section 182, which deals with assessment of registered firms, inclusion of partners' shares in the income of the firm in their own assessment and recovery from the registered firm of tax relating to a non-resident or resident partner in respect of his share in the firm.

(ii) Section 183, which deals with assessment of unregistered firms.

*Clause* 68 seeks to delete the sub-heading "*B—Registration of firms*" and substitute two new sections for the existing sections 184, 185 and 186 dealing with application for registration, procedure for registration and cancellation of registration respectively.

The new section 184 deals with the circumstances under which a firm shall be assessed as such. Sub-sections (1) to (3) provide that the partnership should be evidenced by an instrument of partnership wherein the individual shares of the partners are specified and a copy of the same, certified in writing by all the partners, should be filed along with the first return of the firm which should also be signed by all the partners. Sub-sections (4) and (5) provide that where a firm is assessed in any assessment year, it shall continue to be assessed as such for subsequent years unless a change in the constitution of the firm takes place, in which case the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income of the assessment year in which the change in the constitution has taken place. Sub-section (6) provides that where in the case of a firm a best judgment assessment is made under section 144, the assessing officer shall not assess the firm as such and thereupon it shall be assessed as an association of persons.

The new section 185 provides that if a firm does not comply with the provisions of section 184 for any assessment year, it shall be assessed as an association of persons for that assessment year.

*Clause* 69 seeks to amend section 187 of the Act relating to change in constitution of a firm, by deleting the proviso to sub-section (1) of the section.

The existing proviso to the said sub-section provides, in the case of change in the constitution of the firm, for apportionment of the income of the firm amongst the partners and for recovery of tax assessed upon a partner from the new firm, if it cannot be recovered from the partner. These provisions have become unnecessary in view of the new system of taxation of firms whereby a partner's share in the income of the firm is not to be included in his total income.

*Clause* 70 seeks to insert a new section 188A in the Act to deal with joint and several liability of partners for tax payable by the firm. The new section lays down that every person who was, during the previous year, a partner of the firm, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for that year.

*Clause* 71 seeks to amend section 189 of the Act relating to assessment of a dissolved firm or a discontinued business, by deleting *Explanation* to sub-section (3), as the provisions of this *Explanation* have become unnecessary in view of the deletion of section 182.

*Clause* 72 seeks to insert a new section 189A in Chapter XVI of the Act to provide that in respect of assessment of any firm and of its partners for the assessment year 1988-89 or earlier years, the provisions of Chapter XVI, as they stood immediately before the commencement of the Direct Tax Laws (Amendment) Act, 1987, shall continue to apply.

*Clause* 66 also introduces a new section 167B to provide for charge of tax in the case of association of persons or body of individuals at the maximum marginal rate under certain circumstances. The provisions of the new section 167B, coupled with the provisions of new section 86 and a new clause (ba) to section 40 introduce a new scheme for taxation of the association of persons and body of individuals [see also sections 86 and 40 (ba)].

Under the existing provisions, association of persons and body of individuals are taxed at the rates applicable to individuals. However, if the shares of the members of an association of persons are indeterminate or unknown, the association of persons is taxed at the maximum marginal rate (section 167A). Clause 103 seeks to delete the existing section 167A and introduces a new section 167B for taxation of certain association of persons and body of individuals. The provisions of the new section 167B are:—

(i) Sub-section (1) provides that where the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such an association or body are indeterminate or unknown, the tax shall be charged at the maximum marginal rate on the total income of the association or body.

(ii) Sub-section (2) provides that where in the case of an association of persons or body of individuals, the total income of any member, other than share from such association or body, exceeds the maximum amount which is not chargeable to tax in the case of an individual, the association or body shall be charged at the maximum marginal rate.

A proviso to sub-section (2) provides that if any member of an association or body is chargeable to tax at a rate higher than the maximum marginal rate, tax shall be charged on the total income of the association or body at such higher rate.

The *Explanation* at the end of the new section 167B lays down as to when the shares of members in an association of persons or body of individuals shall be deemed to be indeterminate or unknown, and is the same as the *Explanation* in the existing section 167A.

(In the remaining cases of association of persons and body of individuals, that is where none of the members has other income above the taxable limit and the shares of the members are determinate, tax shall continue to be charged at the rates applicable to the individuals together with such surcharge on tax as may be levied, in the relevant Finance Act).

*Clause* 73 seeks to amend section 194A of the Act relating to deduction of tax at source from interest other than "Interest on securities".

As per the existing provisions of clause (iv) of sub-section (3) of the section, tax is not to be deducted at source from any income credited or paid by a firm to a partner of the firm. Since tax is now required to be deducted from payments by way of interest, salary, etc., made by the firm to its partners (as per the provisions of new section 194E being inserted), the said clause (iv) of sub-section (3) of the section is being omitted.

*Clause* 74 seeks to insert a new section 194E in the Act to provide for deduction of tax at source from interest, salary, etc., paid by a firm to the partners.

The provisions of tax deduction in the new section are on the same lines as in section 192 relating to deduction of tax at source from salaries. The new section consists of sub-sections (1) to (4) which are analogous

to existing sub-sections (1) and (3) of section 192 and sub-sections (2) and (2B) being newly inserted by the Finance Act, 1987.

*Clause* 75 seeks to substitute, two new sections 196 and 196A in place of the existing section 196 of the Act relating to non-deduction of tax on interest or dividends or other sums payable to Government, Reserve Bank or certain Corporations.

The new section 196 is essentially the same as the existing section, except that a new Clause (iv) has been inserted to provide that no tax shall be deducted at source from any sum payable to a Mutual Fund specified under the newly inserted clause (23D) of section 10.

The new section 196A provides that no tax shall be deducted at source by such Mutual Fund from any sums payable to its unit-holders.

*Clause* 76 seeks to substitute new sections 207 and 208 of the Income-tax Act.

Under the existing provisions, advance tax was not payable in respect of capital gains and income of casual nature referred to in sub-clause (ix) of clause (24) of section 2 of the Act. The new section 207 includes all items of income in the total income for chargeability of advance tax.

The new section 208 abolishes the various income limits applicable to different categories of persons referred to in the existing provisions for being liable to pay advance tax and makes it obligatory to pay advance tax in every case where the advance tax payable is Rs. 1,500 or more.

*Clause* 77 seeks to amend section 209 of the Income-tax Act relating to computation of advance tax.

Under the existing provisions of section 209 read with section 209A and section 212 of the Act, an assessee has to pay advance tax in accordance with the statement of income or estimate of advance tax to be sent to the Income-tax Officer in the prescribed manner. The amended section seeks to introduce a new scheme under which an assessee will be required to estimate his current income and pay advance tax thereon without having to submit any estimate or statement of income to the assessing authorities, except where a notice has been served on him under section 210(3) or 210(4).

Sub-clause (a) seeks to insert a new sub-section (1) which secures that where advance tax is payable, the assessee shall himself compute the advance tax payable on his current income at the rates in force in the financial year and deposit the same whether or not he has been earlier assessed to tax or not. Where, however, he fails to do so and has been served with a notice under sub-section (3) or a revised notice under sub-section (4) of section 210 and has filed his own estimate in response thereto, the advance tax payable shall be computed in the like manner on the current income declared in such estimate. The new sub-section also provides for the computation of advance tax by the assessing officer for the purpose of an order under sub-section (3) of section 210 of the Act which will be based on the total income of the latest previous year for which assessment has been made or the returned income in the return last filed

whichever is higher and if the order of the assessing officer has been amended under sub-section (4) of section 210, the computation will be in respect of the total income subsequently returned or assessed which has been made the basis of amendment by the assessing officer. In all the cases the tax calculated at the rates in force in the financial year shall be reduced by the amount deductible at source out of the income which has been taken into account in the computation of current income.

Sub-clause (b) makes amendments in sub-section (2) which are consequential to the changes made in this section and in section 210.

Sub-clause (c) seeks to make amendment in the existing sub-section (3) in consequence of the provisions of sub-sections (3) and (4) of the substituted section 210.

*Clause* 78 seeks to omit section 209A of the Income-tax Act relating to the computation and payment of advance tax by an assessee as it has become redundant in consequence of the insertion of new sub-section (1) in section 210.

*Clause* 79 seeks to insert a new section 210 of the Income-tax Act dealing with payment of advance tax by the assessee of his own accord or in pursuance of order of the assessing officer.

Sub-section (1) provides that any person who is liable to pay advance tax under section 208 shall *suo moto* compute and pay the specified instalments of advance tax. This provision is presently contained in section 209A with the difference that such a person is also liable to submit an estimate of current income and advance tax payable to the assessing officer.

Sub-section (2) allows an assessee to revise the instalment of advance tax in accordance with his estimate of current income without any requirement of filing the revised estimate of advance tax.

Sub-section (3) provides that where, despite the legal obligation cast upon him by sub-section (1), an assessee, who had earlier been assessed to income-tax, fails to pay advance tax, the assessing officer may pass an order requiring him to pay advance tax on his current year's income. Such an order, however, must be passed during the financial year but not later than the last date of February.

Sub-section (4) provides for the amendment of the order passed under sub-section (3) where subsequent to the making of such order or before the 1st day of March, a return of income in respect of any later year has been furnished or any assessment for any later year has been made at a higher figure.

Sub-section (5) enables the assessee to furnish his own estimate of current income in order to reduce the amount of advance tax determined by the assessing officer under sub-section (3) or sub-section (4).

Sub-section (6) provides that where the amount of advance tax on current income as per assessee's own estimate is likely to be higher than what has been determined under sub-section (3) or sub-section (4) or his own estimate under sub-section (5) the assessee shall pay higher tax in accordance with his own calculation of advance tax.

*Clause* 80 seeks to insert a new section 211 of the Income-tax Act dealing with the time by which instalment of advance tax are payable and the amount payable in each instalment.

The existing provisions of section 211 specify different due dates of instalments of advance tax depending on whether the previous year ends on the 31st day of December or before. With the amendment in section 3 of the Act providing that the financial year will be the previous year for all assessees and for all sources of income, the new section specifies uniform due dates of instalments for all assessees.

Under the existing provisions advance tax is payable in equal instalments falling due on the specified dates which are dependent upon the previous year adopted by the assessee.

Sub-section (1) now provides that up to 20 per cent., 50 per cent. and 100 per cent. of the advance tax payable shall be paid by 15th September, 15th December and 15th March, respectively. It has also been provided that any payment of advance tax made before 31st March shall also be treated as advance tax paid during the financial year.

Sub-section (2) secures that where advance tax is payable by virtue of the notice of demand issued by the assessing officer, the whole or the appropriate part of the advance tax shall be payable in the remaining instalments.

*Clause* 81 seeks to omit section 212 dealing with estimate by assessee and section 213 dealing with deferment of instalment where income consists of commission receipts, as these provisions are not needed in the new scheme for payment of advance tax.

*Clause* 82 seeks to amend section 214 of the Income-tax Act, relating to interest payable by Government.

Sub-clause (a) seeks to amend sub-section (1A) to insert a reference to an order of the Settlement Commission under sub-section (4) of section 245D in order to bring orders under these sections within the scheme of this sub-section.

Sub-clause (b) seeks to insert a new sub-section (3) which makes the provisions of this section and sections 215, 216 and 217 inoperative in respect of the assessment year 1989-90 and onwards. It also clarifies that references to these sections except sub-section (1A) of this section and sub-section (3) of section 215 for any earlier assessment year will continue to be regulated by the old provisions. The new provisions for payment of interest are contained in sections 234A, 234B, 234C and 244A.

*Clause* 83 seeks to amend sub-section (3) of section 215 on the lines of sub-section (1A) of section 214, the difference being that under section 214 the interest is payable by the Government whereas under section 215 interest is payable by the assessee.

*Clause* 84 seeks to substitute section 218 of the Income-tax Act relating to the assessees deemed to be in default by a new provision consequential to change in the scheme for payment of advance tax as contained in sections 210 and 211.

*Clause* 85 seeks to amend section 220 of the Income-tax Act which specifies as to when tax is payable and when an assessee is or si deemed in default.

Sub-clause (a) seeks to amend sub-section (1) to require that the specified amount shall be paid within 30 days (hitherto 35 days) of the service of the notice under section 156 of the Act.

Sub-clause (b) seeks to amend sub-section (2) by increasing interest payable by an assessee indefault from the existing rate of 15 per cent. per annum to 1½ per cent. for every month or a part of the month during which an assessee continues to be in default in respect of any amount referred to in sub-section (1). The sub-clause also seeks to enlarge the scope of the proviso to sub-section (2) by including therein any reduction of the amount on which interest is payable by an order of the Settlement Commission under sub-section (4) of section 245D.

Further, sub-clause (b) seeks to add another proviso to the section to provide that where the duration of default includes both the period prior to the 1st of April, 1989 and also period subsequent to that date, the calculation of interest for the earlier period will be on the basis of the old provisions and the calculation of interest for the subsequent period will be controlled by the new provisions.

*Clause* 86 seeks to amend section 222 of the Income-tax Act relating to forwarding of certificate to the Tax Recovery Officer.

Sub-clause (a) seeks to amend sub-section (1). Under the existing provisions, the Income-tax Officer is required to forward to the Tax Recovery Officer specifying the amount of arrears due from the assessee and only then the Tax Recovery Officer assumes jurisdiction in the case. The amended sub-section (1) dispenses with such a requirement. Under the new provisions, the Tax Recovery Officer will assume jurisdiction automatically by specifying the amount of arrears due from the assessee in a prescribed form.

Sub-clause (b) seeks to insert a new sub-section (2) which incorporates the existing provisions, but with reference to the Tax Recovery Officer, in consequence of the amendment of sub-section (1).

*Clause* 87 seeks to insert new sections 223, 224 and 225 of the Income-tax Act relating to the jurisdiction of Tax Recovery Officers and validity, amendment, and stay of proceedings under certificate and withdrawal thereof. The amended sections incorporate the existing provisions, so, however, as to give effect to the new sections 120 and 222 of the Act.

*Clause* 88 seeks to amend section 226 of the Income-tax Act relating to the other modes of recovery.

Sub-clause (a) seeks to substitute sub-section (1) by new sub-sections (1) and (1A). The substituted sub-section (1) provides that the assessing officer may recover the tax by any one or more of the modes provided in this section where no certificate has been drawn up under section 222.

Sub-section (1A) provides similar powers to be exercised by the Tax Recovery Officer where a certificate has been drawn up under section 222.

Sub-clause (b) seeks to replace the words "Income-tax Officer" by the words "Assessing Officer or Tax Recovery Officer" in sub-sections (2), (3), (4) and (5) of this section in order to empower these authorities to exercise powers specified in these sub-sections.

*Clause* 89 seeks to omit section 228 of the Income-tax Act relating to recovery of Indian tax in Pakistan and Pakistan tax in India.

*Clause* 90 seeks to amend section 228A relating to recovery of tax in pursuance of agreements with foreign countries in consequence of amendment of section 222 of the Act.

*Clause* 91 seeks to amend sub-section (1) of section 230 of the Income-tax Act relating to Tax Clearance Certificates.

Under the existing provisions, those persons who are not domiciled in India or those among the Indian domiciles who, in the opinion of an income-tax authority, have no intention of returning to India, require tax clearance certificate. The amendment to sub-section (1) limits its scope by making it applicable only to such Indian domiciles who are leaving the country as an emigrant or for employment or other occupation abroad, etc.

*Clause* 92 seeks to amend sub-section (1) of section 230A relating to the issue of a certificate by the assessing officer for registration of transfer of immovable property. Hitherto, such a certificate was required for properties valued at more than Rs. 50,000. The amended sub-section liberalises the provision and requires production of such a certificate for properties valued at Rs. 1 lakh or more.

*Clause* 93 seeks to delete section 231 relating to the period for commencing recovery proceedings, as the provisions are no longer necessary.

*Clause* 94 seeks to insert in Chapter XVI of the Income-tax Act a new Sub-chapter "*F. Interest chargeable in certain cases*", setting out three new sections 234A, 234B and 234C. The new sub-chapter brings together these new sections dealing with mandatory charge of interest for specified defaults. The new section 234A provides for charge of interest for defaults in furnishing return of income. Accordingly, the existing provisions of sub-section (8) of section 139 have been omitted. Section 234B provides for charge of interest for defaults in payment of advance tax and section 234C deals with charge of interest for deferment of an instalment of advance tax. The existing corresponding sections 215, 216 and 217 have been omitted. Also sections 140A(3), 271(1)(a) and 273 dealing with penalty in such cases are omitted.

Sub-section (1) of new section 234A incorporates in principle the provisions of the existing clause (a) of sub-section (8) of section 139 of the Act by providing that where a return of income has been furnished after the due date or it has not been furnished at all, the assessee shall pay interest which will be computed in the manner specified in the sub-section. The existing rate of interest of 15 per cent. per annum of the tax determined (as reduced by any advance tax paid or tax deducted at source) has been increased to 2 per cent. for every month or part of the month of default. Sub-section (1) omits the existing proviso to clause (a) of sub-section (8) of section 139 and thereby abolishes any provision for reduction or waiver of the interest payable under this sub-section.

*Explanation* 1 clarifies that the "due date" for filing of a return of income is the date specified in sub-section (1) of section 139. Accordingly, the "specified date" mentioned in the existing *Explanation* 1 of sub-section (8) of section 139 has been abolished.

*Explanation* 2 clarifies that for the purposes of computing interest under this section, additional income-tax payable under new section 158B shall not be included in the amount of tax on total income referred to in sub-section (1).

*Explanation* 3 incorporates existing *Explanation* 2 to clause (a) of sub-section (8) of section 139 of the Act.

Sub-section (2) provides for adjustment of any amount already paid towards interest by an assessee under section 140A of the Act.

Sub-section (3) provides for charge and mode of computation of interest where during the course of a reassessment proceeding the return of income is filed belatedly or no return is filed. The *Explanation* to this sub-section is analogous to *Explanation* 2 to sub-section (1).

Sub-section (4) incorporates the existing provisions of clause (b) of sub-section (8) of section 139 of the Act providing for automatic revision of the amount of interest where the amount of tax is varied as a result of revision, appeal or rectification or settlement.

Sub-section (5) provides that this section will apply to all assessments in respect of assessment years 1989-90 and onwards.

Section 234B incorporates the existing provisions of section 215 and section 217 with the difference that the new provisions make the charging of interest mandatory. The existing provisions provide for waiver or reduction of interest under rules prescribed in this regard. The new section does not have any such provision.

Sub-section (1) provides for the mode of computation of interest on any default in payment of advance tax under section 208 read with section 210. Under the existing provisions, the interest is to be charged at the rate of 15 per cent. per annum. The new sub-section provides for charging of interest at the rate of 2 per cent. for every month or for part of a month for the period starting from 1st of April of the following financial year to the date of regular assessment on an amount equal to the assessed tax as reduced by the amount of advance tax, if the advance tax paid falls short of 90 per cent. of the assessed tax.

*Explanation* 1 defines "assessed tax" with reference to which the interest under this section is to be computed.

*Explanation* 2 clarifies that for the purposes of this section, an assessment made for the first time under section 147 shall be deemed to be regular assessment.

*Explanation* 3 excludes any additional income-tax payable under new section 158B from the amount with reference to which interest under this section is to be computed.

Sub-section (2) provides for the mode of computation of interest where an assessee paid any tax under section 140A before the date of regular assessment.

Sub-section (3) provides for charge and mode of computation of interest where in a re-assessment proceeding the total income determined exceeds total income assessed in regular assessment. *Explanation* to this sub-section is analogous to *Explanation* 3 of sub-section (1).

Sub-section (4) is analogous to sub-section (4) of new section 234A.

Sub-section (5) provides that this section shall apply to all assessments for the assessment year 1989-90 and onwards.

Sub-section (1) of new section 234C provides for charge and mode of computation of interest where there has been deferment of instalments of advance tax. The sub-section is patterned on the existing provisions of section 216. The rate of interest, however, has been increased from 15 per cent. per annum to 1½ per cent. per month. *Explanation* to this section defines "tax due on the returned income" with reference to which interest is to be computed under sub-section (1).

Sub-section (2) provides that this section shall apply to all assessments for the assessment year 1989-90 and onwards.

*Clause* 95 amends section 240 of the Act relating to refund on appeal, etc., by inserting a proviso to secure that where an assessment is set aside with the direction to make it afresh, any refund will become due only after the fresh assessment is made. The proviso also secures that where an assessment is annulled the tax on returned income will not be refunded.

*Clause* 96 seeks to insert sub-section (3) in section 243 of the Act relating to interest on delayed refunds. The sub-section provides that the section will not apply to any assessment for the assessment year 1989-90 and onwards. This is consequential to the insertion of new section 244A.

*Clause* 97 seeks to insert sub-section (3) in section 244 of the Act relating to interest on refunds where no claim is needed. The new sub-section provides that the section will not apply to any assessment for the assessment year 1989-90 and onwards. This is consequential to the insertion of new section 244A.

*Clause* 98 seeks to insert a new section 244A in the Act providing for payment of interest on refusds. Under the existing provisions of sections 243 and 244, interest is payable where refund is not granted within 3 months of the end of the month in which the assessment or, as the case may be, claim for refund is made. Further, interest is also payable where any refund arises due to any excess payment of tax or penalty. The new provisions abolish any need for making claim for refund and specify that interest shall be payable on refund of tax or penalty for the periods specified in the section. The rate of interest has been also increased from the existing rate of 15 per cent. per annum to 1½ per cent. for every month or a part of a month of the delay in the grant of refund.

Clause (a) of sub-section (1) provides that where the refund is of any advance tax or tax deducted at source, the interest shall be payable for the period starting from the first day of assessment year to the date of the grant of refund. No interest shall, however, be payable if the excess payment is less than 10 per cent. of the tax determined on regular assessment.

Clause (b) of sub-section (1) provides that where refund is of tax other than advance tax or tax deducted at source, the interest shall be paid for the period starting from the date of payment of such tax, or penalty up to the date on which the refund is granted. It is also clarified by way of an explanation that "date of payment of tax or penalty" means the date on and from which the amount of tax or penalty specified in the notice of demand is paid in excess of such demand.

Sub-section (2) is analogous to the existing provisions of *Explanation* to sub-section (1) and sub-section (2) of section 243. The new sub-section secures that for the purpose of computing the period of delay under sub-section (1) any delay in proceedings (including assessment proceedings) attributable to the assessee shall be excluded.

Sub-section (3) provides for automatic revision of interest on refund where the refund has been increased or reduced on re-assessment, appeal, revision, rectification or by an order of the Settlement Commission under sub-section (4) of section 245D.

Sub-section (4) provides that the new section shall apply to the assessment year 1989-90 and onwards.

*Clause* 99 seeks to amend sub-heading "A" of Chapter XX and to substitute the existing section 246 of the Act relating to appealable orders by two new sections 246 and 246A.

The sub-heading, "A—appeals to the Appellate Assistant Commissioner and Commissioner (Appeals)" is changed to "Appeals or applications to the Deputy Commissioner (Appeals) and Commissioner (Appeals)". This is consequent upon change of designation of the Appellate Assistant Commissioner to Deputy Commissioner (Appeals) and insertion of a new Section 246A empowering the assessee to appeal against the disputed income or deduction included by him in the return of income by way of an application before the Deputy Commissioner (Appeals) or Commissioner (Appeals).

The existing sub-section (1) of section 246, consisting of clauses (a) to (o), specifies orders against which the assessee may appeal to the Appellate Assistant Commissioner. The new sub-section (1), consisting of clauses (a) to (l) specifies the orders of an assessing officer (other than a Deputy Commissioner) against which as assessee may appeal to the Deputy Commissioner (Appeals).

Some of these clauses correspond to the existing clauses of sub-section (1) of section 246. Some clauses have been omitted. Some new appeals have also been provided under the new clauses. Details are given below:

| New clauses | Corresponding old clauses |
|---|---|
| (a) | (c) |
| (b) | (e) |
| (c) | (f) |
| (d) | (g) |

| New clauses | corresponding old clauses |
|---|---|
| (e) | (h) |
| (f) | (i) |
| (g) | (j) |
| (h) | (k) |
| (i) | (l) |
| (j) | (m) |
| (k) | (n) |
| (l)(i) | (o)(ia) |
| (l)(ii) | (o)(iii), (iiia) |

Clauses which have been omitted

| Old clause | Reason |
|---|---|
| (b) | Omission of sub-section (2) of section 131. |
| (d) | Omission of section 146. |
| (o)(i) and (ii) | Omission of levy of penalty in section 140A and omission of section 270. |
| (o)(iv) | Omission of section 272. |

In addition to the above, sub-clause (ii) of clause (1) provides appeal against orders under section 271B (for which there was no appeal earlier) and newly inserted sections 271C, 271D and 271E and also the substituted section 272A.

Sub-clause (iii) of clause (l) incorporates the appeals against the orders under sections 271 (1), 272, 272B and 273. These appeals have been allowed only in respect of any assessment for assessment year 1988-89 or earlier in consequence of barring the applicability of these sections after assessment year 1988-89.

The existing sub-section (2) of this section, consisting of clause (a) to (i) specifies the orders against which the assessee may appeal to the Commissioner (Appeals). The new sub-section (2) also specifies the appellable orders to the Commissioner (Appeals), but consists of clauses (a) to (h). Some of the existing clauses have been omitted. The new clauses and corresponding old clauses are given below:—

| New Clauses | Corresponding old Clauses |
|---|---|
| (a) | (b) |
| (b) | (a) |
| (c) | (d) |
| (d) | (ff) |
| (e) | (g) |
| (f) | (gg) |
| (g) | (h) |
| (h) | (l) |

Sub-sections (3) and (4) of the existing Section, which relate to pending appeals before the appointed date, have become redundant and, therefore, do not find a place in the new section. However, sub-section (5) of the existing section, which empowers the Board to transfer any pending appeals from the Appellate Assistant Commissioner to the Commissioner (Appeals) under certain circumstances, has been amplified to empower the Board to authorise certain income tax authorities to transfer cases, and included as sub-ection (3).

An Explanation at the end of the new section defines the terms "Appointed day" and "status" for the purposes of the section.

The newly inserted section 246A is regarding the application by the assessee before the Deputy Commissioner (Appeals) or Commissioner (Appeals) in certain cases.

This section provides that in the case of a disputed income or deduction to be included by the assessee in a return of income under section 139 or under sub-section (1) of section 142, shall make an application before the authorities mentioned above, within 30 days of furnishing the return provided he shall include in such return the disputed income and shall not claim the disputed deduction and also shall pay 30 per cent of the tax due on the disputed income and in respect of the amount of disputed deduction. This section further provides that the Deputy Commissioner (Appeals) or Commissioner (Appeals), as the case may be, may decide the question raised in the application and pass the necessary orders after either conducting the enquiry himself or asking the assessing officer to conduct the enquiry and furnish the report thereon. Lastly, this section provides that the provisions relating to filing of appeal under this Act shall apply to the making of an application under this section as if such application were an appeal.

*Clause* 100 seeks to omit section 247 of the Act dealing with appeal by partners consequent upon change in procedure for assessment of firm and partners.

*Clause* 101 seeks to substitute a new section for the existing section 267 of the Act in order to provide that where as a result of an appeal under section 246 or section 253, any change is made in the assessment of a body of individuals or an association of persons or a new assessment of a body of individuals or an association of persons is ordered to be made, the Commissioner (Appeals) or the Appellate Tribunal, as the case may be, shall pass an order authorising the assessing officer either to amend the assessment made on any member of the body or association or make a fresh assessment on any member of the body or association.

*Clause* 102 seeks to amend section 268 of the Income-tax Act relating to exclusion of time taken for obtaining copy in computing the period of limitation for appeal.

*Clause* 103 seeks to amend section 269SS of the Income-tax Act relating to the mode of taking or accepting certain loans and deposits.

Sub-clause (a) seeks to increase the monetary limit for application of this section from the existing sum of Rs. 10,000 to Rs. 20,000.

Sub-clause (b) seeks to insert the second proviso to save those cases from the operation of the section where both the persons involved in the transaction derive income only from agriculture or neither of them has any income chargeable to tax under the Act.

*Clause* 104 seeks to amend section 269T of the Income-tax Act specifying the mode of repayment of certain deposits.

Sub-clause (a) seeks to amend sub-section (2). The existing provisions apply to companies (including the banking companies), co-operative societies and firms only. The amendment expands the scope of the section by covering all persons. Sub-clause (a) also seeks to increase the monetary limit for application of the section from the existing sum of Rs. 10,000 to Rs. 20,000.

Sub-clause (b) seeks to amend clause (ii) of the existing *Explanation*. The amended clause (ii) of the *Explanation* expands the definition of the word "deposit" by including, in the case of any person other than a company, deposit of any nature.

*Clause* 105 seeks to omit section 270 of the Income-tax Act relating to imposition of penalty on failure to furnish information regarding securities, etc. These provisions have now been incorporated in the new section 272A of the Act.

*Clause* 106 seeks to insert a new section 271 of the Act. Under the existing provisions, penalty is leviable for (i) failure to furnish return as required by the existing clause (a) of sub-section (1); (ii) failure to comply with notices as specified by the existing clause (b) of sub-section (1); and (iii) concealment of income, etc., under the existing clause (c) of sub-section (1). The new section omits penalty for failure to furnish return and for concealment of income, etc., as these defaults will attract automatic charge of interest and levy of additional tax under new sections 234A and 158B, respectively.

The new section incorporates the provisions of the existing clause (b) of sub-section (1) of section 271 to enable the assessing officer to impose penalty where he is satisfied that the assessee has failed to comply with notices under section 142 and section 143 of the Act. Under the existing provisions, penalty is computed with reference to the amount of tax which would have been avoided, whereas new provisions provide for minimum penalty of one thousand rupees which may extend to the maximum amount of twenty-five thousand rupees for each such failure.

The existing sub-section (2), dealing with penalty leviable on a registered firm by treating it as unregistered firm and also the existing sub-section (4), levying penalty on a partner who under-states his share in a firm, are omitted as these have become infructuous under new scheme for taxation of firms.

The existing sub-section (3) has been omitted in consequence of omission of the existing clause (a) of sub-section (1).

*Clause* 107 seeks to amend section 271A of the Income-tax Act relating to penalty for failure to maintain or retain books of account, etc., as required by section 44AA of the Act. Under the existing provisions, the penalty is computed with reference to tax which would have been avoided if the returned income had been accepted. The new provisions provide

for a minimum penalty of Rs. 2,000 extending up to a maximum of Rs. one lakh.

*Clause* 108 seeks to insert new sections 271C, 271D and 271E in the Act.

New section 271C provides for imposition of penalty on any person who fails to deduct tax at source in contravention of the provisions of Chapter XVIIB of the Act. The penalty is of a sum equal to the amount of tax which should have been deducted at source. The existing provisions do not provide for any penalty in such cases. The penalty under the new provisions is in substitution of provisions of prosecution for such defaults as provided in the existing section 276B and will be in addition to the charge of interest under section 201 of the Act.

New section 271D provides for levy of penalty where any person takes any loan or deposit in contravention of the provisions of section 269SS. The amount of penalty is of a fixed sum equal to the amount of loan or deposit so taken. The new provisions are in substitution of the provisions for prosecution as provided in the existing section 276DD.

New section 271E provides for imposition of penalty on a person repaying any deposit in contravention of the provisions of section 269T. The penalty is of a sum equal to the amount of the deposit so repaid. The provisions of the new section are in substitution of the provisions for prosecution as provided in the existing section 276E.

*Clause* 109 seeks to omit section 272 of the Income-tax Act relating to penalty for failure by any person to give notice of discontinuance of his business or profession. The section has become infructuous as these provisions have been incorporated in clause (b) of sub-section (2) of section 272A.

*Clause* 110 seeks to substitute a new section for section 272A of the Income-tax Act relating to penalty for failure to answer questions, sign statements, allow inspections, etc.

New sub-section (1) secures minimum penalty of five hundred rupees extending up to the maximum of ten thousand rupees for each of the default or failure enumerated in clauses (a), (b), (c) and (d) of the sub-section. The existing provisions do not specify minimum penalty and the maximum is limited to one thousand rupees.

Clause (a) of the sub-section, dealing with refusal to answer any question before the income-tax authority, incorporates the provisions of the existing clause (a).

Clause (b) of the sub-section, dealing with refusal to sign statement, incorporates the provisions of the existing clause (b).

Clause (c) of the sub-section, dealing with non-compliance of summons issued under sub-section (1) of section 131, incorporates the existing provisions of sub-section (2) of section 131.

Clause (d) of the sub-section incorporates the substance of the existing section 272B, whereby any person who fails to apply for allotment of permanent account number under section 139A shall be liable to pay penalty.

Sub-section (2) brings together at one place various existing provisions dealing with the defaults now enumerated in clauses (a) to (h) of the sub-section. Whereas the existing sections provide for different modes of computation of penalty for different defaults, the new sub-section according uniform treatment by providing for a minimum penalty of one hundred rupees extending to the maximum of two hundred rupees for every day of any of the specified defaults.

Clause (a) of the sub-section, dealing with failure to furnish information regarding securities, etc., incorporates the provisions of existing section 270.

Clause (b) of the sub-section, dealing with failure to give notice of discontinuance of business or profession, incorporates the provisions of existing section 272.

Clause (c) of the sub-section, dealing with failure to furnish certain returns and statements, incorporates the provisions of clause (a) of sub-section (2) of the existing section 272A.

Clause (d) of the sub-section, dealing with failure to allow inspection of registers, etc., incorporates the provisions of clause (b) of sub-section (2) of the existing section 272A.

Clause (e) of the sub-section, dealing with failure of a representative assessee in respect of the income of a charitable trust, etc., to furnish return of income, incorporates the provisions of sub-clause (a) of clause (i) of sub-section (1) of the existing section 271.

Clause (f) of the sub-section, dealing with failure to deliver to the Commissioner copy of the declaration furnished by the payee under section 197A, incorporates the provisions of clause (ba) of sub-section (2) of the existing section 272A.

Clause (g) of the sub-section, dealing with failure to furnish certificate for tax deducted at source as required by section 203, incorporates the provisions of clause (c) of sub-section (2) of the existing section 272A.

Clause (h) of the sub-section, dealing with failure to deduct tax from salary in accordance with the order of the Income-tax Officer under sub-section (2) of section 226, incorporates the provisions of clause (d) of sub-section (2) of the existing section 272A.

Sub-section (3) specifies that for the default committed under sub-sections (1) and (2) of the section, the penalty can be imposed by an income-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner.

Sub-section (4) incorporates the existing provisions granting hearing before any penalty is imposed under this section.

The *Explanation* is consequential to the amendment of section 131 of the Income-tax Act enabling the Director General, etc., to exercise the powers under that section.

*Clause* 111 seeks to omit section 272B of the Act relating to penalty for failure to apply for allotment of permanent account number in consequence of its incorporation in clause (d) of sub-section (1) of section 272A.

*Clause* 112 seeks to amend section 273 of the Act relating to penalty for furnishing false estimate of, or failure to pay advance tax, by inserting a new sub-section (3). The new sub-section bars applicability of the existing section to any assessment for the assessment year 1989-90 and onwards. This is consequential to the insertion of new section 234B providing for levy of interest on non-payment of advance tax.

*Clause* 113 seeks to amend section 273A of the Act relating to power of the Commissioner to reduce or waive penalty, etc., in certain cases. The new sub-section (6) secures that this section shall not apply in respect of assessment year 1989-90 and onwards. This is consequential to the amendment of sections 139, 215, 217, 271, 273.

*Clause* 114 seeks to amend section 273B of the Act which provides that certain penalties will not be imposed on proof by the assessee regarding the existence of reasonable cause for the defaults. The amendment is consequential to the omission, substitution or insertion of certain sections in Chapter XXI.

*Clause* 115 seeks to amend section 274 of the Act relating to procedure for imposing penalty under Chapter XXI of the Income-tax Act.

Sub-clause (a) seeks to insert a new sub-section (2) to secure that where the Income-tax Officer or the Assistant Commissioner imposes penalty exceeding rupees ten thousand or twenty thousand, respectively, he must obtain the previous approval of the Deputy Commissioner.

Sub-clause (b) seeks to substitute a new sub-section (3) to secure that an income-tax authority, unless he is himself the assessing officer, will send a copy of the penalty order to the assessing officer. The new sub-section incorporates the existing provisions with changes necessitated by the substitution of "Assessing Officer" for "Income-tax Officer"

*Clause* 116 seeks to amend section 275 of the Act relating to limitation on passing order imposing penalty.

Under the existing provisions, any order imposing penalty under Chapter XXI must be passed within two years from the end of the financial year in which the assessment order was passed or within six months from the end of the month in which the order of appellate authority is received by the Commissioner, whichever period expires later.

Clause (a) restricts the limitation period by providing that the order imposing penalty must be passed before the expiry of the financial year in which the proceedings, which gave rise to penalty proceedings, are completed; or within six months from the end of the month in which the order of the first appellate authority is received by the Chief Commissioner or Commissioner, whichever period expires later.

Clause (b) extends the limitation specified in clause (a) where the assessment order, etc., is the subject matter of revision by the Chief Commissioner or Commissioner under section 263. In such a case, the limitation for passing penalty order is extended by six months from the end of the month in which the order is passed.

Clause (c) incorporates the provisions of the existing clause (b). However, the limitation for passing penalty order where no appeal is filed is reduced from two years from the end of the financial year to the end of the financial year itself in which assessment order etc. is passed or six months from the end of the month in which penalty proceedings were initiated, whichever is later.

*Clause* 117 seeks to insert a new section 276 which makes fraudulent removal and transfer, etc., of property by any person to thwart tax recovery a punishable offence. The punishment specified is rigorous imprisonment extending to two years in addition to fine.

*Clause* 118 seeks to substitute a new section for section 276B relating to prosecution for the offence of failure to deduct or pay tax under sub-section (9) of section 80E or Chapter XVII-B of the Income-tax Act.

Under the existing provisions, the failure to deduct tax at source and also the failure to deposit tax so deducted is a punishable offence. The amended provisions exclude the failure to deduct tax under section 80E or Chapter XVII-B from the purview of the section as section 80E is proposed to be omitted and the failure to deduct tax under Chapter XVII-B is punishable under the new section 271C. The section 276B, now, will cover only cases where tax deducted under the provisions of Chapter XVII-B is not paid to the credit of the Central Government. The punishment for the offence has been made uniform by specifying rigorous imprisonment for at least three months extending to seven years and with fine. Accordingly, the existing provisions, which provide for different terms of imprisonment for the two categories of offenders depending on whether or not the tax involved is above one hundred thousand rupees, are omitted.

*Clause* 119 seeks to omit section 276DD and section 276E relating to contravention of the provisions of section 269SS and section 269T, respectively. Such contraventions will attract imposition of penalty as provided in section 272A.

*Clause* 120 seeks to amend section 278AA of the Act providing that where a reasonable cause for the failure is proved, punishment need not be imposed for specified offences. This amendment is consequential to the omission of section 276DD and section 276E.

*Clause* 121 seeks to insert a new section 293B of the Act to enable the Central Government or the Board to condone delay where their approval could not be obtained within a specified time.

*Clause* 122 seeks to substitute a new section for section 296 of the Act relating to placing of rules, etc., before Parliament. The amendment is consequential to the omission of sub-clause (iv) of clause (23C) of section 10.

*Clause* 123 seeks to amend section 298 of the Act relating to powers of the Central Government to remove difficulties, by adding two new sub-sections (3) and (4) to the section.

The new sub-section (3) empowers the Central Government to remove any difficulties, that may arise in giving effect to the provisions of the Act, as amended by the Direct Tax Laws (Amendment) Act, 1987 by order,

which shall not be inconsistent with such provisions and which shall be passed before the 1st day of April 1991.

The new sub-section (4) requires every order passed under sub-section (3) to be laid before each House of Parliament.

*Clause* 124 seeks to amend the Second Schedule to the Income-tax Act dealing with the procedure for recovery of tax. The existing requirement of issue of Tax Recovery Certificates by the Income-tax Officer to the Tax Recovery Officer has been replaced by the requirement of drawing a "statement of arrears" by the Tax Recovery Officer for proceeding with the recovery of dues from the assessees. The Tax Recovery Officer will himself be able to exercise the functions which were hitherto performed by the Income-tax Officer only in the process of recovery.

Sub-clause (1) seeks to substitute in the heading of the Second Schedule, for the words and figures "*see* section 222", the words and figures "*see* sections 222 and 276" consequent upon the insertion of a new section 276 in the Income-tax Act to provide penalties for fraudulent removal, concealment, transfer or delivery of property to thwart the recovery proceedings hitherto provided in rule 89 of the Schedule which stands omitted.

Sub-clause (2) seeks to define the term "certificate" in clause (a) of rule 1 so as to mean as the certificate drawn up by the Tax Recovery Officer under section 222 in respect of any assessee referred to in that section. However, this definition will not apply to this term appearing in rules 7, 44, 65 and sub-rule (2) of rule 66.

Sub-clause (3) seeks to amend rule 2 to substitute reference to "certificate received" by the certificate drawn up.

Sub-clause (4) seeks to substitute a new rule 8 in place of the existing rule relating to disposal of proceeds of execution.

Sub-rule (1) of this rule provides the following order in which the proceeds of assets realised by sale or otherwise in execution of a certificate shall be appropriated:—

(a) the amount due under the certificate and the cost incurred in the course of such execution;

(b) any other amount recoverable from the assessee under this Act.

The balance after the adjustment under clauses (a) and (b) is to be refunded to the defaulters. This is the present order also. Only the procedure is simplified.

Sub-rule (2) of this rule provides that if the defaulter disputes any adjustment under clause (b) of sub-rule (1), the Tax Recovery Officer shall determine the disputes as at present.

Sub-clauses (5) (i), (6) (9), (10) and (22) seek to substitute the words "Income-tax Officer" by the words "Tax Recovery Officer" wherever they appear in the rules 9, 14, 27, 31 (proviso) and 90 respectively consequent to the Income-tax Officers ceasing to exercise functions in respect

of recovery after the statement of arrears is drawn by the Tax Recovery Officer. Clause 5(*ii*) makes other consequential amendments in rule 9.

Sub-clause (7) seeks to substitute new rule 19A in place of the existing one relating to entrustment of certain functions by the Tax Recovery Officer. The substituted rule provides that a Tax Recovery Officer may with the previous approval of Deputy Commissioner, entrust any of his functions as Tax Recovery Officer to any other officer lower than him in rank not below the rank of an Inspector of Income-tax. It also provides that such officer shall be deemed to be a "Tax Recovery Officer" in relation to functions so entrusted to him. References to officers of the State Governments have been deleted.

Sub-clause (8) seeks to amend sub-rule (1) of rule 25 providing for management of agricultural produce under attachment to provide that instead of requiring the Income-tax Officer to defray the cost of arrangements, the Tax Recovery Officer shall have power to defray such cost.

Sub-clause (11) seeks to amend rule 47 dealing with payment of currency notes or coins attached to provide that instead of making payment of such coins and currency notes to the Income-tax Officer, the Tax Recovery Officer shall credit the same to the Central Government.

Sub-clause (12) seeks to insert a new sub-rule (3) in rule 59 providing that where the Income-tax Officer referred to in sub-rule (1) is declared to be the purchaser at any subsequent sale, he shall not have to deposit 25 per cent of the amount of purchase money to the officer conducting the sale as provided under rule 57 of the Schedule. It also provides that the amount of the purchase price shall be adjusted towards the amount specified in the certificate.

Sub-clause (13) seeks to amend rule 60 dealing with setting aside the sale of immovable property on deposit of dues by omitting the requirement of making payment of such deposit to the Income-tax Officer.

Sub-clause (14) seeks to substitute in rule 61 the words "Income-tax Officer" by the words "such Income-tax Officer as may be authorised by the Chief Commissioner or Commissioner in this behalf," to enable any authorised Income-tax Officer to apply for setting aside the sale of immovable property.

Sub-clause (15) seeks to amend rule 73 by omitting the requirement of receipt of certificate in the office of the Tax Recovery Officer in clauses (a) and (b) of sub-section (1) and substituting, instead, drawing up of the certificate by the Tax Recovery Officer.

Sub-clause (16) seeks to amend rule 74 for omitting the requirement of hearing the Income-tax Officer before giving the defaulter an opportunity of showing cause why he should not be committed to civil prison. The amendment is consequential to the scheme under which the Tax Recovery Officer will act on his own under the exclusive jurisdiction vested in him.

Sub-clause (17) seeks to amend rule 77 consequent to the omission of the provisions dealing with issue of certificate (*see* amendment to section 222) and to the amendment in recovery procedure whereby Tax Recovery Officer will be taking action on his own under the recovery jurisdiction vested in him.

Sub-clause (18) seeks to substitute the words "Tax Recovery Commissioner" in rules 82, 83 and 87 by the words "Chief Commissioner or Commissioner" consequent upon the omission of the definition of "Tax Recovery Commissioner" in clause (43B) of section 2 of the Income-tax Act.

Sub-clause (19) seeks to amend rule 85 consequent to the omission of the requirement of issue of certificates by the Income-tax Officer (*see* amendment to section 222).

Sub-clause (20) seeks to substitute sub-rules (1) and (4) of rule 86 dealing with appeals against the order passed by the Tax Recovery Officer. The substituted sub-rule (1) provides that an appeal from any original order passed by the Tax Recovery Officer under this Schedule, not being an order which is conclusive, shall lie to the Chief Commissioner or Commissioner.

The substituted sub-rule (4) provides that notwithstanding anything contained in sub-rule (1), where a Chief Commissioner or Commissioner is authorised to exercise powers as such in respect of any area, then, all appeals against the order passed before the date of such authorisation by any Tax Recovery Officer authorised to exercise power as such in respect of that area, or an area which is included in that area, shall lie to such Chief Commissioner or Commissioner.

The above amendments are consequent upon amendment in the recovery procedure and omission of definition of "Tax Recovery Commissioner" in clause (43B) of section 2 of the Income-tax Act.

This rule further enables the Board to remove difficulties by issue of general or special orders provided such orders do not affect the substance of any rule.

Sub-clause (21) seeks to omit rule 89 providing for penalties for removal, concealment, transfer or delivery of property to thwart recovery, consequent upon the provision in this regard being made in a new section 276 in the Income-tax Act.

Sub-clause (23) seeks to substitute the words "Tax Recovery Commissioners" in rule 92 in two places where they occur by the words "Chief Commissioners, Commissioners" consequent upon the omission of the definition of "Tax Recovery Commissioner" in clause (43B) of section 2 of the Income-tax Act.

Sub-clause (24) seeks to insert a new rule 94 to provide for continuance of all pending recovery proceedings under this Schedule before coming into force of the amendment to this Schedule by the Direct Tax Laws (Amendment) Act from the stage they had reached. It also provides that every certificate issued by the Income-tax Officer under section 222 before such amendment shall be deemed to be a certificate drawn up by the Tax Recovery Officer under that section after such amendment. It empowers the Board to issue general or special orders in case of difficulty regarding the continuity of the pending recovery proceeding.

*Clause* 125 seeks to insert Tenth Schedule to the Act provide special provisions applicable in cases where the previous year in relation to the assessment year commencing on the 1st day of April, 1989 (called as the

transitional previous year), referred to in sub-section (2) of section 3, exceeds a period of twelve months.

Rule 1 of the Schedule provides the definition of the term, "transitional previous year" to mean the previous year for the assessment year commencing on the 1st day of April, 1988, which will be determined in accordance with sub-section (2) of section 3.

Rule 2 provides that where the transitional previous year is longer than twelve months, the provisions of this Act and the Finance Act of the relevant year shall apply subject to the modifications specified in rules 3, 4. 5 and 6 of the Schedule.

Rule 3 provides that the monetary limits mentioned in various sections of the Act, which are enumerated in a Table given in the rule, will be proportionately increased during the extended transitional previous year.

A proviso to the rule provides that for the purposes of this rule and rules 5 and 6, where the transitional previous year consists of a part of a month, then if such part is fifteen days or more, it shall be increased to one complete month, and if such part is less than fifteen days, it shall be ignored.

Rule 4 provides that where the transitional previous year consists of a period of eighteen months or more, then the number of days specified in sub-section (1) of section 6 for determining the residential status of an individual, namely 182 days and 90 days shall be increased to 273 days and 135 days, respectively.

Rule 5 provides that where in a transitional previous year assessee's income under the head, "Profits and gains of business or profession" is included in the total income for a period of thirteen months or more, the depreciation allowance under clause (ii) of sub-section (1) of section 32 will be proportionately increased.

Rule 6 provides that tax will be payable on the total income of the transitional previous year at the average rate of tax applicable to the proportionate income of twelve months.

Rule 7 empowers the Board, where the transitional previous year is longer than twelve months, to remove genuine hardship, by general or special order, by granting appropriate relief in any case or class of cases.

*Clause* 126 seeks to make certain amendments of a consequential nature in different provisions of the Act.

*Amendments to the Wealth-tax Act, 1957*

*Clause* 127 seeks to substitute or introduce new authorities in the Act consequent upon either the redesignation of these authorities or the inclusion of new authority in section 116 of the Income-tax Act, so as to have one common nomenclature for the authorities under all the three Acts (*viz.* Income-tax Act, Wealth-tax Act and Gift-tax Act). This clause will be effective from 1-4-1988.

*Clause* 128 seeks to amend section 2 of the Wealth-tax Act containing the definition of various terms by deleting, inserting or amending certain definitions.

Sub-clause (i) seeks to omit clause (a) consequent upon the redesignation of "Appellate Assistant Commissioner" as an authority.

Sub-clause (ii), by inserting clause (ca), seeks to define "Assessing Officer" on the same lines as in clause (7A) of section 2 of the Income-tax Act. The existing clause (ca) has been relettered as clause (cb).

Sub-clause (iii) seeks to omit the following definitions consequent upon insertion of new section 8 of the Wealth-tax Act which provides for wealth-tax authorities as specified in section 116 of the Income-tax Act:

(i) "Commissioner" [clause (g)];

(ii) "Commissioner (Appeals)" [clause (gg)];

(iii) "Director of Inspection" [clause (hb)];

(iv) "Income-tax Officer" [clause (k)];

(v) "Inspecting Assistant Commissioner of Wealth-tax" [clause (l)];

(vi) "Inspector of Wealth-tax" [clause (la)].

Sub-clause (iv) seeks to substitute the existing clause (h) by a new clause in order to define the word "company" so as to have the meaning assigned to it in clause (17) of section 2 of the Income-tax Act.

Sub-clause (v) seeks to insert new clause (lc) to define the term "maximum marginal rate".

Sub-clause (vi) seeks to omit clause (i) of the proviso to clause (q) consequent upon the amendment of section 3 of the Income-tax Act by which financial year has been taken as the uniform previous year for all the assessees for different sources of income.

Sub-clause (vii) seeks to substitute the existing clause (s) by a new clause the expressions "Chief Commissioner", "Director General", "Commissioner", "Commissioner (Appeals)", "Director", "Deputy Commissioner," "Deputy Commissioner (Appeals)", "Assistant Commissioner", "Income-tax Officer", "Inspector of Income-tax" and "Tax Recovery Officer" under this Act shall have the same meaning respectively assigned to them under section 2 of the Income-tax Act.

*Clause* 129 seeks to amend section 3 of the Act relating to charge of wealth-tax consequent upon the levy of additional wealth-tax in certain cases in Chapter IVB.

*Clause* 130 seeks to amend section 5 of the Act dealing with exemptions in respect of certain assets.

Sub-clause (i) seeks to provide exemption in respect of units of a Mutual Fund specified under clause (23D) of section 10 of the Income-tax Act.

Sub-clause (ii) seeks to amend sub-section (1A), to make amendments of a consequential nature.

*Clause* 131 seeks to substitute sections 8, 9, 10 and 11 in place of existing ones as under:—

(i) section 8 relating to wealth-tax authorities and their jurisdiction;

(ii) section 9 relating to control of wealth-tax authorities;

(iii) section 10 relating to instructions to subordinate authorities; and

(iv) section 11 relating to jurisdiction of Assessing Officers and power to transfer cases.

(a) the provisions of new sections 8, 9 and 10 have been inserted so as to bring them on the same lines as sections 116, 118, 119 and 120 of the Income-tax Act.

(b) the new section 11 makes applicable the provisions of sections 124 and 127 of the Income-tax Act to the Wealth-tax Act. These are, however, subject to following:—

(i) references to provisions of Income-tax Act in sub-section (3) of section 124 to be construed as references to corresponding provisions of Wealth-tax Act;

(ii) sub-section (5) of section 124 not to apply to Wealth-tax Act;

(iii) in *Explanation* below sub-section (5) of section 127 references to proceedings under the Income-tax Act to be construed as including references to proceedings under the Wealth-tax Act.

*Clause* 132 seeks to delete sections 8A, 8AA, 8B, 9A, 10A, 11A, 11AA, 11B, 12 and 13 of the Act dealing with jurisdiction, control and instructions to subordinate authorities as the provisions of these sections have been incorporated in the new sections 8, 9, 10 and 11 of the Act.

*Clause* 133 seeks to amend section 14 of the Act relating to return of wealth.

1. sub-clause (a) seeks to substitute sub-sections (1) and (2) of the section as under:—

(i) the provision of sub-section (1) relating to filing of Wealth-tax Return have been brought on the lines of sub-section (1) of section 139 of the Income-tax Act relating to filing of Income-tax Returns.

*Explanation* to sub-section (1) provides that due date of filing the Wealth-tax Return will be the same as in the case of filing of Income-tax Returns.

(ii) sub-section (2) provides that return showing net wealth less than the maximum amount not chargeable to tax shall be

treated as never to have been furnished unless the same is filed in response to a notice under section 17 of the Act.

2. sub-clause (b) seeks to delete sub-section (3) of the section relating to discretion of Wealth-tax Officer to extend the date for the delivery of the return under this section.

*Clause* 134 seeks to substitute a new section for section 15 relating to furnishing of return after due date and amendment of the return.

The provisions of this section have been brought on the lines of sub-section (4) of section 139 of the Income-tax Act.

Proviso to this section, however, provides that—

(a) for assessments pertaining to assessment year 1987-88 or earlier years, the return or revised return can be filed by 31-3-1990 or before the completion of assessment, whichever is earlier;

(b) for assessments pertaining to assessment year 1988-89, the return or revised return can be filed by 31-3-1991 or before the completion of assessment, whichever is earlier.

*Clause* 135 seeks to amend section 15A of the Wealth-tax Act which specifies the persons by whom the return of wealth is to be signed and verified.

Sub-clauses (i) and (ii) of this clause seek to amend clauses (a) and (c) of this section on the lines of clauses (a) and (c) of section 140 of the Income-tax Act;

*Clause* 136 seeks to substitute a new section for section 15B of the Act relating to payment of self-assessment tax.

The provisions of this section are on the lines of corresponding provisions of section 140A of the Income-tax Act.

*Clause* 137 seeks to omit section 15C of the Act relating to provisional assessment consequent upon the new scheme of assessment.

*Clause* 138 seeks to substitute a new section for the existing section 16 relating to procedure for assessment.

Provisions of this section have been brought on the lines of Income-tax Act as under:—

(i) Sub-sections (1), (2) and (3) correspond to section 143 of the Income-tax Act;

(ii) Sub-section (4) corresponds to sub-section (1) of section 142 of the Income-tax Act with the exception of clause (iii) and proviso; providing for the power of Assessing Officers to ask for a total wealth statement;

(iii) Sub-section (5) corresponds to section 144 of the Income-tax Act

*Clause* 139 seeks to amend section 17 relating to wealth escaping assessment.

1. Sub-clause (a) of this clause seeks to substitute sub-section (1) with new sub-sections (1), (1A) and (1B) so as to bring the provisions for initiating proceedings in cases of wealth escaping assessment, time limit and sanctioning authorities for such initiations broadly on the same lines as in the corresponding provisions of the Income-tax Act.

This is, however, subject to the following:—

(a) in the case of scrutinised assessments references to escaped income of Rs. 50,000 and Rs. 1 lakh are to be changed to wealth escaping assessment of Rs. 5 lakhs and Rs. 10 lakhs respectively;

(b) in the case of others references to escaped income of Rs. 25,000 and Rs. 50,000 are to be changed to wealth escaping assessments of Rs. 2.5 lakhs and Rs. 5 lakhs respectively.

2. Sub-clause (b) of this clause seeks to amend sub-section (2) so as to bring the provisions on the lines of the provisions in section 150 of the Income-tax Act.

*Clause* 140 seeks to amend section 17A relating to time limit for completion of assessment and re-assessment.

The object of the proposed amendment is to bring the provisions of this section broadly on the same lines as in the corresponding provisions under the Income-tax Act.

Sub-clause (a) of this clause seeks to substitute the existing sub-sections (1) and (2) with new sub-sections.

The provisions of sub-section (1) are on the same lines as the corresponding provisions of sub-section (1) of section 153 of the Income tax Act except that a proviso has been added to provide that the time limit to complete assessment for the assessment years 1985-86 and 1986-87 will be on or before 31st March, 1990.

The provision of sub-section (2) are on the same lines as the corresponding provisions of sub-section (2) of section 153 (excluding proviso) of Income-tax Act except that a proviso has been added to provide—

(i) that where the notice under section 17(1)(a) was served during the financial year 1985-86 or 1986-87 the time limit to complete such assessment or re-assessment shall be on or before 31st March, 1990;

(ii) that where the notice under section 17(1)(b) relates to the assessment for the assessment year 1985-86 or 1986-87, such assessment or re-assessment may be completed on or before the 31st March, 1990, or the expiry of two years from the end of financial year in which such notice was served, whichever is later.

An *Explanation* has been added to clarify that reference to section 17 in the above proviso shall be construed as reference to that section as it stood before amendment by this Bill.

Sub-clause (b) of this clause seeks to amend sub-section (3)—

(i) by substituting the words "four years" by "two years" to bring the time limit for completing the set aside or cancelled assessment at par with those of Income-tax Act;

(ii) by inserting the proviso the time limit to complete the set aside or cancelled assessment has been provided as on or before 31st March, 1990 if such setting aside or cancellation of the order was made during financial year 1985-86 or 1986-87.

*Clause* 141 seeks to insert a new section 17B to provide for charging of interest for defaults in furnishing return of net wealth.

The provisions of this section are on the lines of corresponding provisions of section 234A of Income-tax Act.

*Clause* 142 seeks to substitute new sections 18 and 18A as under:—

(i) section 18 deals with the levy of penalty for failure to comply with notices;

(ii) section 19A deals with the levy of penalty for failure to answer questions, sign statements, furnish information, allow inspections, etc.

Sub-section (1) of section 18 seeks to provide that for non-compliance of notices under section 16(2) or 16(4), the Assessing Officer is empowered to levy a penalty which will not be less than Rupees one thousand and may extend to Rupees twenty five thousand for each such failure or default.

Proviso (a) to this sub-section provides that penalty shall not be imposable under this section if the person proves that the non-compliance of notices was because of reasonable cause.

Proviso (b) to this sub-section requires the Assistant Commissioner and the Income-tax Officer to seek the previous approval of Deputy Commissioner before levying penalty exceeding Rupees twenty thousand in the case of an Assistant Commissioner and Rs. 10,000 in the case of an Income-tax Officer.

Sub-section (2) provides that a reasonable opportunity of being heard shall be given to the assessee before levy of penalty.

Sub-section (3) provides that penalty referred to in sub-section (1) can be levied before the end of the financial year in which the proceedings in the course of which action for imposition of penalty has been initiated are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever is later.

*Explanation* to this sub-section seeks to clarify that in computing the period of limitation for the purpose of this section the following period/time shall be excluded:—

(i) any period during which the immunity granted by the Settlement Commission under section 22H remains in force;

(ii) the time taken in giving an opportunity to be re-heard under proviso to section 39;

(iii) the period during which the proceeding under this section for levy of penalty is stayed by an order or injunction of any court.

Provisions of sub-section (1) of section 18A are on the same lines as those of sub-section (1) of section 272A read with section 273B of the income-tax Act.

Provisions of sub-section (2) are on the same lines as those of the corresponding provisions of sub-section (2) of section 272A of the Income-tax Act.

Provisions of sub-sections (3), (4) and *Explanation* are on the same lines as those of sub-sections (3), (4) and *Explanation* of section 272A of the Income-tax Act.

*Clause* 143 seeks to insert a new Chapter IVB containing section 18D relating to levy of additional wealth-tax in certain cases.

1. Sub-section (1) of this section is on the lines of the provisions of sub-section (1) of section 158B of the Income-tax Act with the following difference:—

The rate of additional wealth-tax to be levied under sub-section (1) is 3 per cent as against 30 per cent under the Act.

2. (i) Clause (a) of sub-section (2) is on the same lines as the corresponding provisions of section 158B of the Income-tax Act.

(ii) Clause (b) and clause (c) provide that the return of net wealth shall be taken to be nil for the purpose of this section if the assessee fails to furnish the return of net wealth in respect of any assessment year leading to completion of assessment under section 16(5), or if the person fails to furnish the return of net wealth under section 14 or section 15 but furnishes the same after he is served with a notice under section 17.

3. The provisions of sub-sections (3), (4), (5) and (6) of this section are on the same lines as those of sub-sections (3), (4), (5) and (6) of section 158B of the Income-tax Act.

*Clause* 144 seeks to amend section 21A of the Wealth-tax Act dealing with assessment in cases of diversion of property, or of income from property, held under trust for public charitable or religious purposes.

The amendment is proposed consequent upon deletion of sections 11, 12 and 13 of the Income-tax Act in their present form and the substitution of a new scheme under new section 80F for the assessment of public charitable and religious trust, philanthropic institutions and Institutions of national importance.

Sub-clauses (a) (b) and (d) of this clause seek to substitute words, brackets and figures—

> "any person referred to in sub-section (3) of section 13 of the Income-tax Act" appearing in clauses (i), (ii) and first proviso to the existing section by the words "any interested person".

Sub-clause (c) of this clause seeks to omit the clause (iii) of the existing section.

Sub-clause (e) (i) of this clause seeks to substitute the words, brackets and figures "any person referred to in sub-section (3) of section

13 of the Income-tax Act has a substantial interest as provided in *Explanation* 3 to that section" appearing in the second proviso to the existing section, by the words, figures, brackets and letter "any interested person has substantial interest as provided in *Explanation* 3 below sub-section (4) of section 80F of the Income-tax Act".

Sub-clause (e) (ii) of this clause seeks to substitute the words, brackets and figure "any person referred to in the aforesaid sub-section (3)" appearing in the second proviso to the existing section by the words "any interested person".

Sub-clause (f) (i) of this clause seeks to substitute the clause (a) of the third proviso of the existing section by a new clause providing that:—

(i) the provisions of clauses (i) and (ii) shall not apply in the case of any trust or institution of national importance notified under clause (d) of sub-section (1) of section 80F of the Income-tax Act; and

(ii) the other provisions of this section shall apply to such trust or institution with the modification that for the words "at the maximum marginal rate", the words and figures "the rates specified in Part I of Schedule I in the case of an individual" shall be substituted.

Sub-clause (f) (ii) of this clause seeks to substitute the words, brackets and figures "clauses (i) to (iii)" in clause (b) of the existing section by the words, brackets and figures "clauses (i) and (ii)" consequent upon omission of the clause (iii) from the section.

Sub-clause (g) of this clause seeks to substitute the clauses (a) and (aa) in the *Explanation* to the existing section by new clauses (a) and (ab) in order to clarify:—

(i) that the expression "interested person" shall have the meaning assigned to it in clause (a) of *Explanation* 1 below sub-section (4) of section 80F of the Income-tax Act. [*Clause* (a)]

(ii) that any part of the property or income of a trust shall be deemed to have been used or applied for the benefit of any interested person in every case in which it can be so deemed to have been used or applied within the meaning of clause (c) of sub-section (3) of section 80F of the Income-tax Act at any time during the period of twelve months ending with the relevant valuation date. [*Clause* (ab)]

The above amendments are in consequence of the omission of sections 11 to 13 of the Income-tax Act and recasting them in section 80F of the Income-tax Act; and

The omission of the term " maximum marginal rate" from this section with a view to define the term for the purpose of the Wealth-tax Act in clause (lc) of section 2 of the Act.

*Clause* 145 seeks to amend section 21AA of the Act dealing with the assessment when assets are held by certain association of persons.

The amendment made is in the cases covered under sub-section (1) of this section regarding charging of tax at the maximum marginal rate,

Clause 146 seeks to amend section 23 of the Act relating to first appeal.

Sub-clause (a) (i) seeks to substitute clause (d) of sub-section (1) so as to provide that an appeal can be filed to the Deputy Commissioner (Appeals) against any penalty imposed by the Assessing Officer under section 18 as it stood immediately before 1-4-1989 or that section as amended by this Bill.

Sub-clause (a) (ii) seeks to omit clause (i) of sub-section (1) consequent upon the omission of sub-section (2) of section 37 of the Act.

Sub-clause (b) seeks to amend sub-section (1A) relating to filing of appeals to the Commissioner (Appeals) so as to substitute the existing clauses (b), (c) and (d) by new clauses. New clause (b) provides that any person objecting to any penalty imposed under existing section 18(1) (c) in respect of any assessment year commencing on 1-4-1988 or any earlier assessment year where such penalty has been imposed with the previous approval of the Deputy Commissioner under sub-section (3) of that section may appeal to the Commissioner (Appeals). The changes made in new clauses (c) and (d) are of consequential nature in view of the revised sections 8, 11 and 18A.

Sub-clause (c) seeks to substitute existing sub-sections (1B) and (1C) by sub-section (1B).

The provisions of existing sub-section (1B) which had served their purpose have not been included in the revised provisions. The revised sub-section (1B) empowers the Central Board of Direct Taxes or certain income-tax authorities authorised by it to transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals).

Sub-clause (d) seeks to omit the proviso to sub-section (2A) so as to take away the discretion of the Deputy Commissioner (Appeals) and Commissioner (Appeals) to exempt the assessee from depositing the tax on the net wealth before admitting the appeal.

*Clause* 147 seeks to insert a new section 23A dealing with the application by the assessee to the Deputy Commissioner (Appeals) or Commissioner (Appeals) in certain cases.

Provisions of this section are on the same lines as those of section 246A of the Income-tax Act.

*Clause* 148 seeks to amend section 31 of the Act dealing with the circumstances when tax, etc., are payable and when assessee deemed in default.

The proposed amendment seeks to bring the provisions of this section on the lines of section 220 of the Income-tax Act.

*Clause* 149 seeks to amend section 32 of the Act dealing with mode of recovery.

Sub-clause (a) of this clause seeks to substitute the words "and to Wealth-tax Officer and Commissioner of Wealth-tax instead of to Income-tax Officer and Commissioner of Income-tax" by the words "and to the corresponding wealth-tax authorities instead of to the income-tax authority specified therein".

Sub-clause (b) of this clause seeks to substitute the existing *Explanation* II with the following *Explanation*:—

> "*Explanation* II—The Chief Commissioner or Commissioner and Tax Recovery Officer referred to in the Income Tax Act shall be deemed to be corresponding wealth-tax authorities for the purpose of recovery of wealth-tax and sums imposed by way of penalty, fine and interest under this Act".

*Clause* 150 seeks to amend section 34A dealing with refunds.

Sub-clause (i) seeks to insert a proviso at the end of sub-section (1) so as to bring the provisions of this sub-sections on the same lines as those of section 240 of the Income-tax Act.

Sub-clause (ii) seeks to insert sub-sections (4A) and (4B) after sub-section (4). The inserted sub-section (4A) provides that the provisions of sub-sections (3), (3A) and (4) of this section dealing with payment of interest by Government on delayed and withheld refunds shall not be applicable in respect of any assenssment for the assessment year 1988-89 or later. This is because a new scheme of payment of interest in such cases has been provided in the newly inserted sub-section (4B) which is on the same lines as the corresponding provisions in sub-section (4A) of section 244 of the Income-tax Act which shall be applicable for this purpose for assessment year 1988-89 or later.

*Clause* 151 seeks to amend section 35 of the Act dealing with rectification of mistakes.

By this amendment the wealth tax authority has been empowered to amend the intimation sent or revise the amount of refund granted under sub-section (1) of section 16 of the Act.

*Clause* 152 seeks to amend section 35K providing for bar on prosecution and inadmissibility of evidence in certain circumstances on the lines of section 279(1A) of the Income-tax Act.

*Clause* 153 seeks to amend section 37 of the Act dealing with powers of the wealth-tax authorities regarding discovery, production of evidence, etc.

Sub-clause (a) of this clause seeks to insert sub-section (1A) after sub-section (1) to provide that the Director General or Director or the authorised officer referred to in sub-section (1) of section 37A, before he takes action under clauses (i) to (vi) of that section has reason to suspect that any net wealth has been concealed, or is likely to be concealed by any person or class of persons within his jurisdiction, then for the purposes of making any enquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the wealth-tax authorities referred to in that section, notwithstanding

that no proceedings with respect to such persons or class of persons are pending before him or any other wealth-tax authority.

Sub-clause (b) of this clause seeks to omit sub-section (2) dealing with the power to levy penalty for non-compliance of summons issued under this section. This power has now been provided in a newly inserted section 18A.

Sub-clause (c)(i) of this section seeks to insert the words, brackets, figure and letter "or sub-section (1A)" after the words, brackets and figure "in sub-section (1)", consequent upon the insertion of the new sub-section (1A) as mentioned above.

Sub-clause (c) (ii) seeks to insert in the proviso the words "or an Assistant Director" after the words "valuation officer".

With the aforesaid amendment the provisions of section 37 have been brought on the same lines as those of the amended section 131 of the Income-tax Act except the following:—

(a) in sub-section (1) the powers to summon, etc., have also been conferred on valuation officer and appellate tribunal.

(b) in proviso to sub-section 3) of this section valuation officer is also an authority other than those mentioned in corresponding provision of the Income-tax Act.

*Clause* 154 seeks to amend section 37A of the Act dealing with powers of search and seizure.

The provisions of this section are broadly on the lines of the similar provisions of section 132 of the Income-tax Act.

*Clause* 155 seeks to amend section 37B of this Act dealing with power to requisition books of account, etc.

This section has been amended so as to bring it on the lines of section 132A of the Income-tax Act.

*Clause* 156 seeks to insert a new section 37C dealing with application of retained assets on the lines of section 135(2B) of the Income-tax Act.

*Clause* 157 seeks to amend section 38 of the Act relating to power of the Wealth-tax Officer to call for information, return and statement.

Sub-clause (a) seeks to substitute the words "where for the purposes of determining the wealth-tax payable by any person" the words "where for the purposes of this Act" so as to enlarge the scope of the provisions for any purpose of this Act.

Sub-clause (b) seeks to substitute the words "the Wealth-tax Officer" by the words "any wealth-tax authority" in the first place and "such wealth-tax authority" in the second and third place, so as to enlarge the scope of the power under this section for other wealth-tax authorities also.

*Clause* 158 seeks to amend section 45 of the Act which provides for cases in which no tax is leviable.

Clause (j) is being inserted to provide that no tax shall be leviable under the Act in respect of the net wealth of a Mutual Fund specified under clause (23D) of section 10 of the Income-tax Act.

*Clause* 159 seeks to insert a new section 47 in the Act so as to empower the Central Government to make an order for removing any difficulty which may arise in giving effect to the provisions of the Act as amended by this Bill. It is also being provided that no such order shall be made by the Central Government after the expiration of three years from 1-4-1988 and that every order made under this section shall be laid before each House of Parliament.

*Clause* 160 seeks to make certain amendments of a consequential nature in different provisions of the Act.

*Amendments to the Gift-tax Act, 1958*

*Clause* 161 seeks to substitute or introduce new authorities in the Act consequent upon either the redesignation of these authorities or the inclusion of new authority in section 116 of the Income-tax Act, so as to have one common nomenclature for the authorities under all the three Acts (viz. Income-tax Act, Wealth-tax Act and Gift-tax Act). This clause will be effective from 1-4-1988.

*Clause* 162 seeks to amend section 2 of the Act relating to "definitions" of various expressions.

Sub-clause (*a*) seeks to omit clause (i) consequent upon the redesignation of "Appellate Assistant Commissioner" as an authority.

Sub-section (*b*) seeks to insert a new clause (iii*a*) after clause (iii) so as to bring the definition of "assessing officer" on the lines of definition of this term in clause (7A) of section 2 of the Incometax Act.

Sub-clause (*c*) seeks to omit the following definitions:—

| | | |
|---|---|---|
| (A) | (i) Commissioner | (clause vi) |
| | (ii) Commissioner (Appeals) | (clause via) |
| | (iii) Director of Inspection | (clause viia) |
| | (iv) Gift-Tax Officer | (clause xiii) |
| | (v) Income-tax Officer | (clause xv) |
| | (vi) Inspecting Assistant Commissioner of Gift-tax | (clause xvi) |
| | (vii) Inspector of Gift-tax | (clause xvia) |

consequent upon insertion of new section 7 in the Gift-tax Act which provides for gift-tax authorities as specified in section 116 of Income-tax Act;

(B) "partner" as defined in clause (xvii) consequent upon its inclusion in substituted clause (xi).

Sub-clause (*d*) seeks to substitute clause (vii) by a new clause so as to bring the definitions of "company", "Indian company" and "company in which public are substantially interested" on the same lines as in section 2 of the Income-tax Act.

Sub-clause (*e*) seeks to substitute clause (xi) by a new clause so as to bring the definitions of "firm", "partner" and "partnership" on the same lines as in section 2 of the Income-tax Act.

Sub-clause (*f*) seeks to omit—

(i) sub-clause (b) of clause (xx) defining the term "Previous Year" consequent upon the amendment in section 3 of the Income-tax Act;

(ii) the words, brackets and letter "or sub-clause (b)" in the first proviso consequent upon the deletion of sub-clause (b) of clause (xx);

(iii) the second proviso, consequent upon the amendment in section 3 of the Income-tax Act.

Sub-clause (*g*) seeks to insert a new clause (xxv) providing that the expressions "Chief Commissioner", "Director-General", "Commissioner", "Commissioner (Appeals)", "Director ", "Deputy Commissioner", "Deputy Commissioner (Appeals)", "Assistant Commissioner", "Income-tax Officer", "Tax Recovery Officer" and "Inspector of Income-tax" shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.

*Clause* 163 seeks to amend section 3 in the Act relating to charge of gift-tax, consequent upon levy of additional gift-tax.

*Clause* 164 seeks to substitute new sections 7, 8, 9, and 10 in place of existing ones as under:—

(i) Section 7 relating to Gift-tax authorities and their jurisdiction;

(ii) section 8 relating to control of Gift-tax authorities;

(iii) section 9 relating to instructions to subordinate authorities; and

(iv) section 10 relating to jurisdiction of assessing officers and power to transfer cases.

(a) the provisions of new sections 7, 8 and 9 have been inserted so as to bring them on the same lines as sections 116, 118, 119 and 120 of the Income-tax Act.

(b) the new section 10 makes applicable the provisions of sections 124 and 127 of the Income-tax Act to the Gift-tax Act,

with suitable modifications as required by special features of this Act.

*Clause* 165 seeks to delete sections 7A, 7AA, 7B, 8A, 9A, 11, 11A, 11AA, 11B and 12 of the Act dealing with jurisdiction, control and instructions to subordinate authorities as the provisions of these sections have been incorporated in the new sections 7, 8, 9 and 10 of the Act.

*Clause* 166 seeks to amend section 13 of the Act relating to return of gifts.

Sub-clause (a) seeks to substitute sub-sections (1) and (2) of the section by new sub-sections so as to provide that:—

(i) the return in respect of taxable gifts exceeding the maximum amount not chargeable to gift-tax shall be filed on or before 30th June of the assessment year corresponding to the previous year in which the gift was made. [sub-section (1)]

(ii) a return showing amount of taxable gifts below the maximum amount which is not chargeable to tax shall be deemed never to have been furnished. [sub-section (2)].

Sub-clause (b) seeks to omit sub-section (3) relating to discretion of Gift-tax officer to extend the date for the delivery of the return under this section.

*Clause* 167 seeks to substitute a new section for section 14 relating to furnishing of return after due date and amendment of the return.

The provisions of this section have been brought on the lines of sub-section (4) of section 139 of the Income-tax Act.

Proviso to this section, however, provides that—

(a) for assessments pertaining to assessment year 1987-88 or earlier years, the return or revised return can be filed by 31-3-1990 or before the completion of assessment, whichever is earlier;

(b) for assessments pertaining to assessment year 1988-89, the return of revised return can be filed by 31-3-1991 or before the completion of assessment, whichever is earlier.

*Clause* 168 seeks to amend section 14A of the Act which specifies the persons by whom the return of gift is to be signed and verified.

Sub-clauses (i) and (ii) of this clause seek to amend clauses (a) and (c) of this section on the lines of clauses (a) and (c) of section 140 of the Income-tax Act.

*Clause* 169 seeks to insert a new section 14B of the Act relating to payment of self-assessment tax.

The provisions of this section are on the lines of corresponding provisions of section 140A of the Income-tax Act.

*Clause* 170 seeks to substitute a new section for the existing section 15 relating to procedure for assessment.

Provisions of sub-sections (1) to (5) have been brought on the lines of the corresponding provisions of section 143 of the Income tax Act and section 16 of the Wealth-tax Act.

Sub-section (6) seeks to provide that an assessing officer may refer the valuation of any property transferred by way of gift to the Valuation Officer. The provision is on the lines of section 16A of the Wealth-tax Act and makes the relevant sections of Wealth-tax Act applicable in relation to such references as they apply in relation to references made under the Wealth-tax Act.

*Explanation* to this sub-section seeks to clarify that the "Valuation Officer" has the same meaning as in clause (4) of section 2 of the Wealth-tax Act.

*Clause* 171 seeks to amend section 16 relating to gift escaping assessment. The object of the amendment is to bring the provisions of this section broadly on the same lines as in the porresponding provisions under the Income-tax Act.

*Clause* 172 seeks to amend section 16A relating to time-limit for completion of assessment and re-assessment.

The object of the proposed amendment is to bring the provisions of this section on the same lines as in the corresponding provisions under the Wealth-tax Act.

*Clause* 173 seeks to insert new section 16B in the Act to provide for charging of interest for defaults in furnishing return of gifts.

The provisions of this section are on the lines of the corresponding provisions of section 234A of the Income-tax Act and section 17B of the Wealth-tax Act.

*Clause* 174 seeks to substitute new sections 17 and 17A as under:—

(i) section 17 deals with the levy of penalty for failure to comply with notices;

(ii) section 17A deals with the levy of penalty for failure to answer questions, sign statements, furnish information, allow inspections, etc.

Provisions of the sections 17 and 17A are on the lines of the corresponding sections 18 and 18A of the Wealth-tax Act and sections 271 and 272A of the Income-tax Act.

*Clause* 175 seeks to insert a new Chapter IVA containing section 18B relating to levy of additional gift tax in certain cases.

This section is on the lines of the provisions of sub-section (1) of section 158B of the Income-tax Act with the difference that the rate of additional gift-tax to be levied under sub-section (1) is 20 per cent. as againts 30 per cent. under the Income-tax Act.

*Clause* 176 seeks to amend section 22 of the Act relating to first appeal.

Sub-section (a) (i) seeks to substitute clause (d) of sub-section (1) so as to provide that an appeal can be filed to the Deputy Commissioner (Appeals) against any penalty imposed by the Assessing Officer under section 17 as it stood immediately before 1-4-1989 or that section as amended by this Bill.

Sub-clause (a) (ii) seeks to omit clause (h) of sub-section (1) consequent upon the omission of sub-section (2) of section 36 of the Act.

Sub-clause (b) seeks to amend sub-section (1A) relating to filing of appeals to the Commissioner (Appeals) so as to substitute the existing clauses (b), (c) and (d) by new clauses. New clause (c) provides that any person objecting to any penalty imposed under existing section 17(1)(c) in respect of any assessment year commencing on 1-4-1988 or any earlier assessment year where such penalty has been imposed with the previous approval of the Deputy Commissioner under sub-section (3) of that section may appeal to the Commissioner (Appeals). The changes made in new clauses (b) and (d) are of consequential nature in view of the revised sections 7, 10 and 17A.

Sub-clause (c) seeks to substitute existing sub-sections (1B) and (1C) by such-section (1B).

The provisions of existing sub-section (1B) which had served their purpose have not been included in the revised provisions. The revised sub-section (1B) empowers the Central Board of Direct Taxes or certain income-tax authorities authorised by it to transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals).

*Clause* 177 seeks to insert a new section dealing with application by the assessee to Deputy Commissioner (Appeals) or the Commissioner (Appeals) or, in certain cases. Provisions of this section are on the same lines as those of section 246A of the Income-tax Act and section 23A of the Wealth-tax Act.

*Clause* 178 seeks to amend section 32 of the Act dealing with the recovery of tax, etc., on the lines of section 220 of the Income-tax Act.

*Clause* 179 seeks to amend section 33 of the Act dealing with mode of recovery. The amendments are consequential to the provisions of section 7 providing that the income-tax, authorities specified in section 116 of the Income-tax Act shall also be the gift-tax authorities.

*Clause* 180 seeks to amend section 33A of the Act dealing with refunds. The provisions are on the same lines as those of section 34A of the Wealth-tax Act.

*Clause* 181 seeks to amend section 34 of the Act dealing with rectification of mistakes. The amendment is on the same lines as in section 35 of the Wealth-tax Act. By this amendment, the gift-tax authority has been empowered to amend any intimation sent or revise the amount of refund granted under sub-section (1) of section 15 of the Act.

*Clause* 182 seeks to amend section 36 of the Act relating to powers of gift-tax authorities including valuation officer regarding discovery, production of evidence, etc., to bring the provisions on the lines of sub-sections (1) and (1A) of section 131 of the Income-tax Act.

The provision relating to levy of fine for non-compliance of summons by gift-tax authorities has been omitted consequent upon power to levy penalty for non-compliance of summons being provided in section 17A.

*Clause* 183 seeks to amend section 37 of the Act relating to power of the Gift-tax Officer to call for information and statement.

Sub-clause (*a*) seeks to enlarge the scope of this section so as to enable the authorities to obtain statement or information for any purpose of the Act and also from a banking company.

Sub-clause (*b*) seeks to vest such powers to gift-tax authorities in place of Gift-tax Officer under the present provisions.

*Clause* 184 seeks to amend section 45 of the Act dealing with certain cases where the provisions of this Act do not apply.

Sub-clause (*a*) seeks to substitute the words "The provisions of this Act shall not apply to gifts made by" by the words "No tax shall be levied in this Act in respect of gifts made by".

Sub-clause (*b*) seeks to substitute existing clauses (*a*), (*b*), (*c*), (*d*) and (*da*) by the following new clauses (*a*) and (*b*), *viz.*

(*a*) a company in which the public are substantially interested;

(*b*) any company to an Indian company in a scheme of amalgamation.

Sub-clause (*c*) seeks to substitute a new clause (*e*) for the existing clause consequent upon insertion of new section 80F in the Income-tax Act relating to charitable trusts.

Sub-clause (*d*) seeks to substitute new *Explanations* 1 and 2 in place of existing *Explanations* 1, 2 and 3.

*Explanation 1* seeks to clarify that the term "amalgamation" referred to in clause (*b*) shall have the meaning assigned to it in section 2(*1A*) of the Income-tax Act.

*Explanation 2* seeks to clarify that exemption admissible under clause (*e*) in relation to gifts mentioned therein shall not be denied merely on either or both of the following grounds:—

(*i*) that subsequent to the gift the institution or fund has become ineligible to the deduction under section 80F of the Income-tax Act due to non compliance with any of the provisions of that section,

(*ii*) that the deductions under section 80F of the Income-tax Act are denied to the institution or fund in relation to any income arising to it from any investment referred to in clause (*h*) of sub-section (4) of that section where the aggregate of

the funds invested by it in a concern referred to in the said clause (*h*) does not exceed five per cent. of the capital of that concern.

*Clause* 185 seeks to insert a new section 47 in the Act so as to empower the Central Government to make an order for removing any difficulty which may arise in giving effect to the provisions of the Act as amended by this Bill. It is also being provided that no such order shall be made by the Central Government after the expiration of three years from 1-4-1988 and that every order made under this section shall be laid before each House of Parliament.

*Clause* 186 seeks to make certain amendments of consequential nature in different provisions of the Act.

*Amendments to the Companies (Profits) Surtax Act*, 1964.

*Clause* 187 seeks to substitute or introduce new authorities in the Act consequent upon either the re-designation of the authorities or the inclusion of the new authorities in section 116 of the Income-tax Act.

*Clauses* 188 and 189 seek to amend sections 3 and 18 of the Act to make certain amendments of consequential nature.

## FINANCIAL MEMORANDUM

Clause 24 of the Bill seeks to insert a new section 80F in the Income-tax Act, 1961 providing for a new scheme for taxation of charitable institutions. Clause 25 of the Bill seeks to amend section 80G for allowing deductions in respect of payments to a trust or institution of national importance which has as its main object the undertaking of scientific research or carrying out of any rural development programme or carrying out of any programme of conservation of national resources or afforestation of wasteland. These changes will require the setting up of a Directorate General of Tax Exemptions. This Directorate will ensure uniform application of the provisions relating to the assessment of the charitable institutions and will monitor the work in this regard of the Income-tax offices all over India. The notifications for exemptions, etc., being presently issued by the Central Board of Direct Taxes will be issued by this Directorate so that the Board does not get involved in thousands of new cases.

2. The setting up of the said Directorate will involve a recurring expenditure of Rs. 141.79 lakhs on pay and allowances of officers and staff and other establishment expenses and a non-recurring expenditure of Rs. 41.32 lakhs on furniture, staff cars, etc.

3. The provisions of the Bill will not involve any other expenditure of a recurring or non-recurring nature.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (c) of clause 6 of the Bill seeks to substitute the main paragraph of clause (5) of section 10 of the Income-tax Act. Sub-clause (ii) of clause 13 of the Bill seeks to substitute clause (b) of section 40. The provisions of clause (5) of section 10 and sub-clause (iv) of clause (b) of section 40 empower the Central Government to make rules for the matters specified in the said provisions.

Clause 24 of the Bill seeks to insert a new section 80F in Chapter VIA of the Income-tax Act providing for a unified scheme for taxation of charitable and religious trusts which will also be applicable to institutions of national importance including those involved in scientific research, rural developments, conservation of natural resources and afforestation of wasteland.

Under the proviso to clause (iii) of sub-section (1) of section 80F, the Central Board of Direct Taxes has been empowered to approve a scheme framed by an assessee for the purposes of applying any amount wholly and exclusively for the benefits of citizens of India abroad by the said assessee so that such amount qualifies for deduction under the said clause (iii). Clause (c) of sub-section (1) also provides that the deduction under that sub-section shall not be allowed unless the assessee fulfills certain conditions imposed by the Central Board of Direct Taxes. Such conditions may include a condition that the nominee of the Board shall be appointed on the Board of Trustees of the trust or governing body of the institution. Sub-section (8) of section 80F further empowers the Central Board of Direct Taxes to delegate its powers or authority under that section to income-tax authorities not below the rank of a Commissioner.

Clause (iv) of sub-section (1) of section 80F and clauses (a) and (b) of sub-section (2) of that section empower the Central Government to make rules in relation to matters specified in the said provisions. Clause (a) of sub-section (7) and sub-clause (i) (E) of clause (f) of that section empower the Central Government to make rules in relation to the matters specified therein.

Clause 32 of the Bill seeks to substitute section 120 of the Income-tax Act by a new section dealing with jurisdiction of the income-tax authorities. The Central Board of Direct Taxes is authorised to issue various types of directions to the income-tax authorities for the purposes of the section.

Clause 42 of the Bill seeks to amend section 139 of the Income-tax Act relating to filing of return of income. Sub-clause (a) seeks to substitute sub-section (1) of section 139 and sub-clause (d) seeks to substitute sub-sections (4) and (4A) of that section. The provisions of sub-section (1) and sub-section (4A) as so substituted empower the Central Government to make rules, in relation to the matters specified in the said provisions.

Clause 47 of the Bill seeks to amend section 142 of the Income-tax Act relating to inquiry before assessment. Sub-clause (b) seeks to insert a new clause (i) in sub-section (1) of section 142. The provisions of the said clause (i) empower the Central Government to make rules in relation to the matters specified therein.

Clause 54 of the Bill seeks to substitute new sections for the existing sections 147 and 148 of the Income-tax Act. The provisions of section 148 as so substituted empower the Central Government to make rules in relation to the matters specified therein.

Clause 74 of the Bill seeks to insert a new section 194E providing for deduction of tax by a firm on the payment of interest, salary, bonus, commission or remuneration to partners. The provisions of sub-sections (2) and (3) of section 194E empower the Central Government to make rules in relation to the matters specified in those sub-sections.

Clause 79 of the Bill seeks to substitute a new section for section 210 of the Income-tax Act. The provisions of sub-section (5) of section 210 empower the Central Government to make rules in relation to the matters specified therein.

Clause 87 of the Bill seeks to substitute new sections for sections 223, 224 and 225 of the Income-tax Act. Clause (b) of sub-section (2) of section 223 as so substituted empowers the Central Government to make rules in relation to the matters specified therein.

Clause 94 of the Bill seeks to insert new sections 234A and 234B in the Income-tax Act. Clause (i) of sub-section (4) of section 234A and clause (i) of sub-section (4) of section 234B empower the Central Government to make rules in relation to the matters specified in the said clauses.

Clause 98 of the Bill seeks to insert a new section 244A in the Income-tax Act. Sub-section (3) of section 244A empowers the Central Government to make rules in relation to the matters specified therein.

Clause 123 of the Bill seeks to amend section 298 of the Income-tax Act relating to power to remove difficulties so as to insert sub-sections (3) and (4) in that section. Under sub-section (3) as so inserted, the Central Government has been empowered to make orders to remove any difficulty which arises in giving effect to the provisions of the Income-tax Act as amended by this Bill. It has been provided that no such order shall be made after the expiration of three years from 1-4-1988 and that every order so made shall be laid before each House of Parliament.

Clause 124 of the Bill seeks to amend the Second Schedule to the Income-tax Act. Sub-clause (24) seeks to insert a new rule 94 in the said Schedule to provide for the continuance of certain proceedings for the recovery of tax pending immediately before the coming into force of the amendments to that Schedule by the present Bill. The Central Board of Direct Taxes is being empowered to issue (whether by way of modification or otherwise, not affecting the substance, of any rule in the said Schedule) general or special orders which appear to it to be necessary or expedient for the purpose of removing the difficulty arising in continuing the said proceedings.

Clause 125 of the Bill seeks to insert the Tenth Schedule laying down allowances subject to which the provisions of the Income-tax Act will apply in cases where the previous year in relation to the assessment year commencing on 1-4-1989, referred to in section 3(2), exceeds twelve months. Paragraph 7 of this Schedule empowers the Central Board of Direct Taxes to grant relief for avoiding genuine hardship, by general or special order, in any case or classes of cases where the transitional previous year is longer than twelve months.

Clause 131 of the Bill seeks to substitute new sections 8 to 11 for certain existing sections in the Wealth-tax Act.

The provisions of new sections 9 and 10 relate to control of wealth-tax authorities and instructions to be issued by the Board to subordinate authorities. These provisions are similar to the provisions of sections 118 and 120 of the Income-tax Act including the provisions relating to delegated legislation.

Clause 133 of the Bill seeks to amend section 14 of the Wealth-tax Act. Sub-clause (a) seeks to substitute existing sub-sections (1) and (2). The provisions of sub-section (1) as so substituted empowers the Central Government to make rules in relation to the matters specified therein.

Clause 138 of the Bill seeks to substitute section 16 of the Wealth-tax Act. Clause (i) of sub-section (4) of section 16 empowers the Central Government to make rules in relation to the matters specified therein.

Clause 139 of the Bill seeks to amend section 17 of the Wealth-tax Act. Sub-clause (a) seeks to substitute new sub-sections for sub-section (1) of section 17. The provisions of sub-section (1) as so substituted empower the Central Government to make rules in relation to the matters specified therein.

Clause 141 of the Bill seeks to insert a new section 17B in the Wealth-tax Act. Clause (i) of sub-section (4) of section 17B empowers the Central Government to make rules in relation to the matters specified therein.

Clause 143 seeks to insert a new Chapter IVB consisting of section 18D in the Wealth-tax Act. Clause (i) of sub-section (3) of section 18D empowers the Central Government to make rules in relation to the matters specified therein.

Clause 150 seeks to amend section 34A of the Wealth-tax Act. Sub-clause (ii) seeks to substitute sub-sections (4A) and (4B) for the existing sub-section (4). Clause (c) of the said sub-section (4B) empowers the Central Government to make rules in relation to the matters specified therein.

Clause 159 of the Bill seeks to insert new section 47 in the Wealth-tax Act, relating to power to remove difficulties. The provisions of the said section empower the Central Government to make orders for removing any difficulty which may arise in giving effect to the provisions of the Wealth-tax Act as amended by this Bill. It is also being provided that no such order shall be made after the expiration of three years from 1-4-1988 and that every such order shall be laid before each House of Parliament.

Clause 164 of the Bill seeks to substitute new sections 7 to 10 for certain existing sections in the Gift-tax Act. The provisions of new sections 8 and 9 relate to gift-tax authorities and instructions to be issued by the

Board to subordinate authorities. These provisions are similar to the provisions of sections 118 and 120 of the Income-tax Act including the provisions relating to delegated legislation.

Clause 166 of the Bill seeks to amend section 13 of the Gift-tax Act. Sub-clause (a) seeks to substitute sub-sections (1) and (2). The provisions of sub-section (1) as so substituted empower the Central Government to make rules in relation to the matters specified therein.

Clause 170 of the Bill seeks to substitute section 15 of the Gift-tax Act. The provisions of clause (i) of sub-section (4) and clause (b) (i) of sub-section (6) of section 15 empower the Central Government to make rules in relation to the matters specified therein.

Clause 171 of the Bill seeks to amend section 16 of the Gift-tax Act. Sub-clause (a) seeks to substitute new sub-sections (1), (1A) and (1B) for the existing sub-section (1). The provisions of sub-section (1) as so substituted empower the Central Government to make rules in relation to the matters specified therein.

Clause 173 of the Bill seeks to insert a new section 16B in the Gift-tax Act. The provisions of clause (i) of sub-section (4) of section 16B empowers the Central Government to make rules in relation to the matters specified therein.

Clause 175 of the Bill seeks to insert a new Chapter IVA consisting of section 18B in the Gift-tax Act. The provisions of clause (i) of sub-section (3) of section 18B empower the Central Government to make rules in relation to the matters specified therein.

Clause 180 of the Bill seeks to amend section 33A of the Gift-tax Act. Sub-clause (ii) seeks to substitute new sub-sections (4A) and (4B) for the existing sub-section (4). The provisions of clause (c) of the said sub-section (4B) empower the Central Government to make rules in relation to the matters specified therein.

Clause 185 of the Bill seeks to insert a new section 47 in the Gift-tax Act relating to power to remove difficulties. The provisions of the said section empower the Central Government to make orders for removing any difficulty which may arise in giving effect to the provisions of the Gift-tax Act as amended by this Bill. It is also being provided that no such order shall be made after the expiration of three years from 1-4-1988 and that every such order shall be laid before each House of Parliament.

The matters in respect of which rules, orders or directions may be made in accordance with the aforesaid provisions are matters of procedure and administrative detail, and it is not practicable to provide for them in the said provisions.

The delegation of legislative power is, therefore, of a normal character.

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SUBHASH C. KASHYAP,
*Secretary-General.*

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